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इस भाग में भिन्न पृष्ठ संलग्न की जाती है जिससे कि यह अलग संकलन के इप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उद्देश्य (ii)

PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों और (संघ राज्यसंग्रह प्रशासनों को छोड़ कर) कोर्टीय प्राधिकारियों द्वारा जारी किए गए सामिक्षिक आदेश और प्रधिसूचनाएं।

Statutory Orders and Notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) by Central Authorities (other than the Administrations of Union Territories)

भारत निवाचित आयोग

आदेश

मई दिल्ली, 27 निवाचन, 1980

का०आ० 3208.—यह: निवाचित आयोग का समाधान हो गया है कि मई, 1980 में हुए समिलनालूक विधान सभा के लिए साधारण निवाचित के लिए 210 विलायिकूलम निवाचित-शेव से चुनाव लड़ने वाले उम्मीदवार श्री ओ०एम० पेरुमलस्वामी नाईकेर, मेलाकरानाथि, कोलाकरानाथि पोस्ट, विलायिकूलम लालुक, तामिलनाडू, भोक प्रतिनिधित्व प्रधिनियम, 1951 नया तद्वीत अन्वाएं गए नियमों द्वारा प्रपेक्षित अपने निवाचित व्ययों का कोई भी खेला दाकिल करने में असफल रहे हैं;

और, यह: उन्हें उम्मीदवार ने, उसे मध्यक सूचना दिये जाने पर भी अपनी इस असफलता के लिए कोई कारण अपवाह स्पष्टीकरण नहीं दिया है, और निवाचित आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायोचित नहीं है;

प्रत: अब, उक्त अधिनियम की धारा 10 के अनुसरण में निवाचित आयोग एवं द्वारा उक्त धो० एस० पेरुमलस्वामी को संसद के किसी भी सदन के या किसी ग्रन्थ की विधान वभा अथवा विधान परिषद् के सदस्य चुने जाने और छोटे के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

[सं०मिल०-वि०स०/210/80(11)]

[No. TN-LA/210/80(11)]

का०आ० 3209.—यत्, निर्वाचन आयोग का समाधान हो गया है कि मई, 1980 में दृष्टि नमिलनाडु विधान सभा के लिए मात्रागण निर्वाचन के लिए 213-संकरानयानारकोळ निर्वाचन-क्षेत्र में चुनाव लड़ने वाले उम्मीदवार श्री पी० मध्यया, 5 हर्जिन स्ट्रीट संकरानकोळ नमिलनाडु लोक प्रतिनिधित्व प्रधिनियम, 1951 तथा नद्धीन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का कोई भी लेखा, वाचित करने में असफल रहे हैं।

ओर, यत्, उक्त उम्मीदवार ने, उसे सम्पर्क सूचना दिये जाने पर भी अपनी इस असफलता के लिए कोई कारण अथवा मात्रागण नहीं दिया है, और समाधान हो गया है कि उसे पास हम असफलता के लिए कोई पर्याप्त कारण या न्यायीकालिक नहीं है।

अतः अब, उक्त प्रधिनियम की धारा 10-के अनुसार में निर्वाचन आयोग एतद्वारा उक्त श्री पी० मध्यया को समद के किसी भी मदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के मदस्य चुने जाने और होने के लिए इस आदेश की नामिक तीन वर्ष की कालावधि के लिए निरहित घोषित करना है।

[म० नमिल०-वि०म०/213/80(12)]

S.O. 3209.—Whereas the Election Commission is satisfied that Shri P. Muthiah, 5th Harijan Street, Sankarankoil Tamil Nadu, a contesting candidate for general election to the Tamil Nadu Legislative Assembly held in May, 1980, from 213-Sankaranayananarkoil (SC) Constituency, has failed to lodge an account of his election expenses at all as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate, even after due notice, has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri P. Muthiah, to be disqualified for being chosen as, and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. TN-LA/213/80(12)]

नई दिल्ली, 30 मित्तम्बर, 1980

का०आ० 3210.—यत्, निर्वाचन आयोग का समाधान हो गया है कि मई, 1980 में दृष्टि नमिलनाडु विधान सभा के लिए मात्रागण निर्वाचन के लिए 226-श्री संकरान्तम निर्वाचन-क्षेत्र में चुनाव लड़ने वाले उम्मीदवार श्री पी० मोदिया पिलई मपूल श्री पिचा पिलई, 5/१८ दक्षिण स्ट्रीट, शिथागलई पोस्ट, पीन कोड-628753, लोक प्रतिनिधित्व प्रधिनियम, 1951 तथा नद्धीन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का कोई भी लेखा, वाचित करने में असफल रहे हैं,

ओर, यत्, उक्त उम्मीदवार ने, उसे सम्पर्क सूचना दिये जाने पर भी अपनी इस असफलता के लिए कोई कारण अथवा मात्रागण नहीं दिया है, और निर्वाचन आयोग का यह भी समाधान हो गया है कि उस के पास हम असफलता के लिए कोई पर्याप्त कारण या न्यायीकालिक नहीं है।

अतः अब, उक्त प्रधिनियम की धारा 10-के अनुसार में निर्वाचन आयोग एतद्वारा उक्त श्री पी० मोदिया पिलई को समद के किसी भी मदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के मदस्य चुने जाने और होने के लिए इस आदेश की नामिक तीन वर्ष की कालावधि के लिए निरहित घोषित करना है।

[म० नमिल०-वि०म०/226/80(15)]

New Delhi, the 30th September, 1980

S.O. 3210.—Whereas the Election Commission is satisfied that Shri P. Pothiah Pillai, S/o Shri Picha Pillai, 5/98 South Street, Sivagalai Post, Pin Code-628753, a contesting candidate for general election to the Tamil Nadu Legislative Assembly held in May, 1980 from 226-Sivakuntam constituency, has failed to lodge an account of his election expenses at all as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate, even after due notice, has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri P. Pothiah Pillai to be disqualified for being chosen as, and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. TN-LA/226/80(15)]

नई दिल्ली, 1 अक्टूबर, 1980

का०आ० 3211.—यत्, निर्वाचन आयोग का समाधान हो गया है कि मई, 1980 दृष्टि नमिलनाडु विधान गभा के लिए मात्रागण निर्वाचन के लिए 220-चेरामहादेवी निर्वाचन-क्षेत्र में चुनाव लड़ने वाले उम्मीदवार श्री ए० मुन्द्रम, 61, राजाजी स्ट्रीट, किरमालनथामगलम, नमिलनाडु, लोक प्रतिनिधित्व प्रधिनियम, 1951 तथा नद्धीन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का कोई भी लेखा, वाचित करने में असफल रहे हैं;

ओर, यत् उक्त उम्मीदवार ने, उसे सम्पर्क सूचना दिये जाने पर भी अपनी इस असफलता के लिए कोई कारण अथवा मात्रागण नहीं दिया है, और निर्वाचन आयोग का यह भी समाधान हो गया है कि उसके पास हम असफलता के लिए कोई पर्याप्त कारण या न्यायीकालिक नहीं है।

अतः अब, उक्त प्रधिनियम की धारा 10-के अनुसार में निर्वाचन आयोग एतद्वारा उक्त श्री ए० मुन्द्रम को समद के किसी भी मदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के मदस्य चुने जाने और होने के लिए इस आदेश की नामिक तीन वर्ष की कालावधि के लिए निरहित घोषित करना है।

[म० नमिल०-वि०म०/220/80 (14)]

New Delhi, the 1st October, 1980

S.O. 3211.—Whereas the Election Commission is satisfied that Shri A. Sundaram, 61, Rajaji Street, Karisoolnthalangamalai, Tamil Nadu a contesting candidate for general election to the Tamil Nadu Legislative Assembly held in May, 1980, from 220-Cheranmaha Devi Constituency, has failed to lodge

an account of his election expenses at all as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate, even after due notice, has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri A. Sundaram to be disqualified for being chosen as, and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. TN-LA/220/80(14)]

नई दिल्ली, 3 अक्टूबर, 1980

कांग्रा 3212—यत् निर्वाचन प्रायोग का समाधान हो गया है कि मंड. 115/0 में दुप तमिलनाडु विधान सभा के लिए गावारण निर्वाचन के लिए 222-नातगरेनी निर्वाचन-शेत्र में चुनाव लड़ने वाले उम्मीदवार श्री एम्. मानिकलाल नादर, 112/5, पेस्मल काल्ल मर्टर, वाल्लियर गाँव और पोस्ट, निर्वाचन जिला (तमिलनाडु) लाक प्रतिनिधित्व अधिनियम 1951 तथा कानून बनाए गए नियमों द्वारा अपेक्षित अपने निवाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहे हैं।

अब यत्, उक्त उम्मीदवार ने, उसे सम्भव भूचना किये जाने पर भी अपनी इस असफलता के लिए कार्ड कारण अथवा स्पष्टीकरण नहीं दिया है, और निर्वाचन प्रायोग का यह भी समाधान हो गया है उसके पास इस असफलता के लिए कार्ड पर्याप्त कारण या न्यायीकित्य नहीं है।

यत् अब, उक्त अधिनियम की धारा 10-के अनुसरण में निर्वाचन प्रायोग एन्डड्वारा उक्त श्री एम्.मानिकलाल नादर को गमद के किसी भी सदन के या किसी गाँव की विधान सभा अथवा विधान परिषद् के मदस्य चुन जान और हांते के लिए इस प्रादेश की तारीख से तीन वर्ष की कालावधि के लिये निर्गत होना चाहित करता है।

[स० नमिन०-वि०म०/222/80 (18)]

New Delhi, the 3rd October, 1980

S.O. 3212—Whereas the Election Commission is satisfied that Shri S. Samikalai Nadar, 112/5, Perumal Koil Street, Vallivur Village and Post, Tirunelveli District (Tamil Nadu), a contesting candidate for general election to the Tamil Nadu Legislative Assembly held in May, 1980 from 222, Nanguneri constituency, has failed to lodge an account of his election expenses at all as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And, whereas, the said candidate, even after due notice, has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri S. Samikalai Nadar to be disqualified for being chosen as, and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. TN-LA/222/80(18)]

कांग्रा 3213—यत्, निर्वाचन प्रायोग का समाधान हो गया है कि मंड. 1980 में दुप तमिलनाडु विधान सभा के लिए साधारण निर्वाचन के लिए 222-नातगरेनी निर्वाचन-शेत्र में चुनाव लड़ने वाले उम्मीदवार श्री जी०मुरा रेड्डीयर, बनानकलम (आया) मनगढ़पु, नानगृनेरी तालुक, निर्वाचन जिला (तमिलनाडु) लोक प्रतिनिधित्व अधिनियम, 1951 तथा नद्धीन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहे हैं;

अब अब, उक्त उम्मीदवार ने, उसे सम्भव भूचना किये जाने पर भी अपनी इस असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है, और निर्वाचन प्रायोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायीकित्य नहीं है,

यत् अब, उक्त उम्मीदवार का लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है, और निर्वाचन प्रायोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायीकित्य नहीं है।

[म०नमिन०-वि०म०/222/80(19)]

S.O. 3213—Whereas the Election Commission is satisfied that Shri G. Subba Reddiar, Banankulam (Via) Moonadaippu, Nanguneri Taluk, Tirunelveli District (Tamil Nadu), a contesting candidate for general election to the Tamil Nadu Legislative Assembly held in May, 1980 from 222 Nanguneri constituency, has failed to lodge an account of his election expenses at all as required by the Representation of the People Act, 1951 and the Rules, made thereunder;

And, whereas, the said candidate, even after due notice, has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri G. Subba Reddiar to be disqualified for being chosen as, and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for period of three years from the date of this order.

[No. TN-LA/222/80(19)]

नई दिल्ली, 15 अक्टूबर 1980

कांग्रा 3214—यत्, निर्वाचन प्रायोग का समाधान हो गया है कि मंड. 1980 में दुप तमिलनाडु विधान सभा के लिए साधारण निर्वाचन के लिए 45-कलामपालकम निर्वाचन-शेत्र में चुनाव लड़ने वाले उम्मीदवार श्री सो०धनापाल मधुकर श्री पा० चिन्नाधामबी, वाडाकारुनगलिपाली गाँव, मारोकोलापूर पोस्ट, निर्वाचनालालू तालुक, उत्तरी अर्काट, तमिलनाडु लाक प्रतिनिधित्व अधिनियम, 1951 तथा नद्धीन बनाए गए नियमों द्वारा, अपेक्षित अपने सेति से प्राप्त निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहे हैं,

अब अब, उक्त उम्मीदवार ने, उसे सम्भव सूचना दिये जाने पर भी अपनी इस असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है, और निर्वाचन प्रायोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायीकित्य नहीं है,

यत् अब, उक्त अधिनियम की धारा 10-के अनुसरण में निर्वाचन प्रायोग एन्डड्वारा उक्त श्री सो० धनपाल को समद के किसी भी सदन के या किसी गाँव की विधान सभा अथवा विधान परिषद् के मदस्य चुन जान और हांते के लिए इस प्रादेश की तारीख से तीन वर्ष की कालावधि के लिए निर्गत होना चाहित करता है।

[म०नमिन०-वि०म०/45/80(20)]

New Delhi, the 15th October, 1980

S.O. 3214—Whereas the Election Commission is satisfied that Shri C. Dhanapal, S/o A. Chinnathambi, Vadakarungipadi Village, Sorakolathur Post, Tiruvannamalai Taluk, North Arcot (Tamil Nadu), a contesting candidate for general election to the Tamil Nadu Legislative Assembly held in May, 1980 from 45 Kalasapakkam assembly constituency, has failed to lodge an account of his election expense, as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And, whereas, the said candidate, even after due notices has not given any reason or explanation for the failure and the Election Commission is further satisfied that he has no good reason or justification for such failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri C. Dhanapal to be disqualified for being chosen as, and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. TN-LA/45/80(20)]

नई दिल्ली, 16 अक्टूबर, 1980

का० जा० 3215.—यतः, निर्बाचित आयोग का समाधान हो गया है कि मई, 1980 में हुए तमिलनाडु विधान सभा के लिए साधारण निर्वाचन के लिए 30-पर्नाम्पूरम (जा० जा०) निर्वाचित-सेवा से चुनाव लड़ने वाले उम्मीदवार श्री ई० सुश्रामण्यराजू, राजारथियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा अपेक्षित रीति से अपने निर्वाचन अधियों का लेखा वाचिकन करने में असफल रहे हैं;

ओर, यतः उक्त उम्मीदवार ने, उसे सम्भव् सूचना दिये जाने पर भी अपनी इस असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है, और निर्बाचित आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायीक्रिय नहीं है,

अतः अब, उक्त अधिनियम की धारा 10-के अनुसरण में निर्वाचित आयोग एतद्वारा उक्त श्री ई० सुश्रामण्यराजू को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरर्हित घोषित करता है।

[सं० तमिल०-वि० स०/30/80 (21)]

New Delhi, the 16th October, 1980

S.O. 3215.—Whereas the Election Commission is satisfied that Shri D. Subramanya Raju, Rajapalayam Village, Gonipalayam Post, Tiruvalloore Taluk, Tamil Nadu a contesting candidate for general election to the Tamil Nadu Legislative Assembly held in May, 1980 from 30-Tiruttani assembly constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And, whereas, the said candidate, even after due notices has not given any reason or explanation for the failure and the Election Commission is further satisfied that he has no good reason or justification for such failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri D. Subramanya Raju to be disqualified for being chosen as, and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of State for a period of three years from the date of this order.

[No. TN-L/A/30/80(21)]

का० जा० 3216.—यतः, निर्बाचित आयोग का समाधान हो गया है कि मई, 1980 में हुए तमिलनाडु विधान सभा के लिए साधारण निर्वाचन के लिए 38-पर्नाम्पूरम (जा० जा०) निर्वाचित-सेवा से चुनाव लड़ने वाले उम्मीदवार श्री सी० राजारथियम, न० 2, रामास्वामी मुदाली स्ट्रीट, वसन्तापुरम, विनोरे, तमिलनाडु, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचित अधियों कोई भी लेखा रीति से दाखिल करने में असफल रहे हैं;

ओर, यतः, उक्त उम्मीदवार ने, उसे सम्भव् सूचना दिये जाने पर भी अपनी इस असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है, और निर्बाचित आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायीक्रिय नहीं है,

अतः अब, उक्त अधिनियम की धारा 10-के अनुसरण में निर्वाचित आयोग एतद्वारा उक्त श्री सी० राजारथियम को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरर्हित घोषित करता है।

[सं० तमिल०-वि० स०/38/80(22)]

S.O. 3216.—Whereas the Election Commission is satisfied that Shri C. Rajarathinam, No. 2, Ramasamy Mudali Street, Vasantapuram, Vellore (Tamil Nadu), a contesting candidate for general election to the Tamil Nadu Legislative Assembly held in May, 1980 from 38-Pernambut (SC) assembly constituency, has failed to lodge an account of his election expenses at all as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And, whereas, the said candidate, even after due notices has not given any reason or explanation for the failure and the Election Commission is further satisfied that he has no good reason or justification for such failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri C. Rajarathinam to be disqualified for being chosen as, and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of State for a period of three years from the date of this order.

[No. TN-LA/38/80(22)]

नई दिल्ली, 25 अक्टूबर 1980

का० जा० 3217.—यतः, निर्वाचित आयोग का समाधान हो गया है कि जनवरी, 1980 में हुए लोक सभा के लिए साधारण निर्वाचित के लिए 15-रसिपुरम (जा० जा०) संसदीय निर्वाचित-सेवा से चुनाव लड़ने वाले उम्मीदवार श्री ई० कंडास्वामी, आदि ब्राह्मदार स्ट्रीट, बलुकुरिची पोस्ट, नामकल तालुक (तमिलनाडु), लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचित अधियों का कोई भी लेखा वाचिल करने में असफल रहे हैं;

ओर, यतः, उक्त उम्मीदवार ने, उसे सम्भव् सूचना दिये जाने पर भी अपनी इस असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है, और निर्वाचित आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिए कोई प्रयत्न कारण या न्यायीक्रिय नहीं है;

अतः अब, उक्त अधिनियम की धारा 10-के अनुसरण में निर्वाचित आयोग एतद्वारा उक्त श्री ई० कंडास्वामी को संसद के किसी भी सदन या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरर्हित घोषित करता है।

[सं० तमिल०-ल०० स०/15/80(14)]

New Delhi, the 25th October, 1980

S.O. 3217.—Whereas the Election Commission is satisfied that Shri S. Kandasamy, Adi Dravidar Street, Belukurichi Post, Namakkal Taluk (Tamil Nadu), a contesting candidate for general election to the House of People held in January, 1980 from 15-Rasipuram (SC) parliamentary constituency has failed to lodge an account of his election expenses at all as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And, whereas, the said candidate, even after due notice, has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri S. Kandasamy to be disqualified for being chosen as, and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. TN-HP/15/80(14)]

का० जा० 3218.—यतः, निर्वाचित आयोग का समाधान हो गया है कि जनवरी, 1980 में हुए लोक सभा के लिए साधारण निर्वाचित के लिए 17-तिरुचेंगाड़े संसदीय निर्वाचित-सेवा से चुनाव लड़ने वाले उम्मीदवार श्री ई० एम० एम० नारायणन्, 163-167 क० एन० क० रोड़ हरोड़-१ (तमिलनाडु) लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचित अधियों का कोई भी लेखा वाचिल करने में असफल रहे हैं;

और, यह, उक्त उम्मीदवार ने, उसे सम्यक् सूचना दिये जाने पर भी अपनी इस असफलता के लिए कोई कारण अध्यवा स्पष्टीकरण नहीं दिया है, और निर्वाचन आयोग का यह भी समाधान हो गया है कि उन्होंने पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायीकान्त्रिक नहीं है,

अतः, अब, उक्त अधिनियम की धारा 10-का के अनुसरण में निर्वाचन आयोग एवं द्वारा उक्त श्री ई० एस० एस० नारायण का समर के किंतु भी सदन के या किसी राज्य का विधान सभा अध्यवा विधान परिषद् के सदस्य चुन जान और हाने के लिए इस आयोग की सारीज्ञ से तीन वर्ष की कालावधि व लिए निराहत घोषित करता है।

[स० तमिल०-ला० स०/17/80 (15)]

S.O. 3218—Whereas the Election Commission is satisfied that Shri E M S Narayanan, 163—167 K N K Road, Erode 1 (Tamil Nadu), a contesting candidate for general election to the House of People held in January, 1980 from 17-Tiruchengode parliamentary Constituency, has failed to lodge an account of his election expenses at all as required by the Representation of the People Act, 1951, and the Rules made thereunder.

And, whereas, the said candidate, even after due notice, has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri E M S Narayanan to be disqualified for being chosen as, and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order

[No TN-HP/17/80(15)]

नई दिल्ली, 27 अक्टूबर, 1980

का० आ० 3219—यह, निर्वाचन आयोग वा समाधान हो गया है कि जनवरी, 1980 में हुए लाक सभा के लिए साधारण निर्वाचन के लिए 16-सलेम सासदीय निर्वाचन क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री एस० सी० थाम्बा, (सकोराहा०) 175—अथवानारी गौड़र स्ट्रीट झज्जानूर, सलेम-4 (नमिनाडु) लाक प्रतिनिधित्व अधिनियम, 1951 द्वारा नदीन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्यवों का कोई भी सेक्षण दाखिल करने वाले असफल रहे हैं,

और, यह, उक्त उम्मीदवार न, उसे सम्यक् सूचना दिये जाने पर भी अपनी इस असफलता के लिए कोई कारण अध्यवा स्पष्टीकरण नहीं दिया है, और निर्वाचन आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायीकान्त्रिक नहीं है।

अतः, अब, उक्त अधिनियम की धारा 10-का के अनुसरण में निर्वाचन आयोग एवं द्वारा उक्त श्री एस० सी० थाम्बा को समर के किंतु भी सदन के या किसी राज्य का विधान सभा अध्यवा विधान परिषद् के सदस्य चुने जाने और हाने के लिए इस आदेश की सारीज्ञ से तीन वर्ष की कालावधि के लिए निराहत घोषित करता है।

[स० तमिल०-ला० स०/16/80(16)]

आरेण से,

बी० के० राज, अवार सचिव
भारत निर्वाचन आयोग

New Delhi, the 27th October, 1980

S.O. 3219—Whereas the Election Commission is satisfied that Shri S C Thambi (Sakkari Gounder), 175, Arthanari Gounder Street, Meyyanur, Salem-4 (Tamil Nadu), a contesting candidate for general election to the House of the People held in January, 1980 from 16, Salem parliamentary constituency, has failed to lodge an account of his election expenses at all as required by the Representation of the People Act, 1951, and the Rules made thereunder.

And, whereas, the said candidate, even after due notice, has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for such failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri S C Thambi (Sakkari Gounder) to be disqualified for being chosen as, and for being a member of either House of parliament or of the Legislative Assembly or Legislative Council of State for a period of three years from the date of this order

[No TN HP/16/80(16)]

By order,

V K RAO, Under Secy
to the Election Commission of India

नई दिल्ली, 15 अक्टूबर, 1980

का० आ० 3220—1980 की निर्वाचन आर्जी स० 12 में लालाहाबाद उच्च न्यायालय के तारीख 12 अ० 1980 के निर्णय का, लोक प्रतिनिधित्व अधिनियम, 1951 (1951 दि० 1) का धारा 106 की उप-धारा (क) के अनुसरण में, निर्वाचन आयोग इसके द्वारा प्रकाशित करता है।

[३० ८२/उ० प०/१२/८० (इला०) (१)]

ELECTION COMMISSION OF INDIA

New Delhi, the 15th October, 1980

S.O 3220.—In pursuance of sub section (a) of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the judgment dated the 12th August, 1980 of the High Court of Judicature at Allahabad, in Election Petition No 12 of 1980

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

CIVIL SIDE

ORIGINAL JURISDICTION

Allahabad, the 12th day of August, 1980

PRESENT .

Hon'ble J P Chaturvedi

Judge

Election Petition No. 12 of 1980

B M Ahsinghani

. . . Petitioner

Versus

Smt Indira Gandhi and others—Respondents

By the Court

By her application of July 18, 1980, respondent no 1, Smt Indira Gandhi, seeks dismissal of Election Petition no 12 of 1980 (Bhagwan Singh Madhav Singh Ahsinghani Vs Smt Indira Gandhi and others) challenging the election of respondent no 1 to "23 Rae Bareilly Parliamentary Constituency". The following preliminary objections have been taken :

1 The election petition having been presented at Allahabad instead of Lucknow, this Court has no jurisdiction to hear it as the entire cause of action accrued to the petitioner at Rae Bareilly i.e within Avadh territories

2 The election petition does not contain a concise statement of material facts and full particulars of the corrupt practices alleged to have been committed As such the various paragraphs relating to corrupt practices should be struck off and the petition be dismissed for want of cause of action

3 The petitioner has no cause of action and none of the reliefs claimed by him in the petition can be granted to him by this Court As such the petition is liable to be dismissed It will be an exercise in futility to try and hear it to the conclusion

4 The election petition is neither signed by the petitioner nor is it properly verified in the manner required under the law The affidavit accompanying the petition is also not in the prescribed form As such it is no petition in the eye of law.

Before considering the above grounds, certain undisputed facts need be mentioned. The Election Commission by a notification dated 3rd of December, 1979 called upon the electors of almost all the parliamentary Constituencies in India, 23 Rae Bareilly Parliamentary constituency being one of them, to elect their representative to the Lok Sabha (House of the people). In pursuance of this notification the petitioner and respondents nos 1 to 25 were nominated as candidates for contesting the election to the '23 Rae Bareilly Parliamentary Constituency'. The polling in this constituency was held on 4th January, 1980. The Returning Officer of the constituency declared respondent no. 1 as elected from that constituency. Respondent no. 1 had also contested from Medak constituency in Andhra Pradesh and was also declared elected from there. She elected to retain the Medak seat and resigned from the Rae Bareilly seat. Consequently the Election Commission decided to hold a bye-election to the "23 Rae Bareilly constituency" on 24 February, 1980. The present petition was presented on 22, February, 1980. Notwithstanding a prayer in the petition for stay of the election to be held on 24th February, 1980, the polling was held on the appointed day, there being no interim stay order. In fact, no attempt appears to have been made to obtain such an order. In the bye election held on the 24th February, 1980 Shri Arun Nehru was declared elected.

1. Want of Jurisdiction—In connection with the contention relating to jurisdiction, learned counsel for the respondent no. 1 referred to the provisions of the first proviso to paragraph 14 of the United Provinces High Courts (Amalgamation) Order, 1948.

It will be not out of place to refer at the very outset to the historical background in which the Amalgamation order was promulgated. In 1861 the British Parliament enacted the Indian High Courts Act empowering the Crown to establish High Courts at Calcutta, Madras, Bombay and at one other Place. Accordingly, Letters Patent of March, 17, 1866 constituted a High Court for North Western Provinces called the High Court of Judicature at Allahabad. In 1879 the Judicial Commissioner's Court at Lucknow was created under the provisions of Oudh Civil Courts Act, 1879 for the territories falling within Oudh which had been brought under the Crown in 1856. Although in 1901 the regions of Agra and Oudh were united by creating a single province of United Provinces of Agra and Avadh but the judicial administration still remained separate. In 1925 the Judicial Commissioner's Court at Lucknow was replaced by the Oudh Chief Court with its jurisdiction over the same area. Then came Government of India, Act, 1935. Under the provisions of Section 219 thereof, the United Provinces High Courts (Amalgamation) Order, 1948 was promulgated.

The Amalgamation order of 1948, provided for amalgamation of the High Court of Judicature at Allahabad and Chief Court of Oudh with effect from July 26, 1948 and for constituency of a single High Court by the name of High Court of Judicature at Allahabad. The new High Court was conferred all such original, appellate and other jurisdiction in respect of the whole of the United Provinces as was exercisable by the existing High Courts under the law immediately in force before the appointed day. Para 14 of the Amalgamation order which is pertinent to the present case provides:—

"The new High Court, and the Judges and Division Court thereof, shall sit at Allahabad or at such other places in the United Provinces as the Chief Justice may, with the approval of the Governor of the United Provinces appoint :

Provided that unless the Governor of the United Provinces with the concurrence of the Chief Justice, otherwise directs, such Judges of the New High Court, nor less than two in number, as the Chief Justice may, from time to time, nominate shall sit at Lucknow in order to exercise in respect of cases arising in such areas in Oudh as the Chief Justice may, direct, the jurisdiction and power for the time being vested in the new High Court :

Provided further, that the Chief Justice may in his discretion order that any case or class of cases arising in the said areas shall be heard at Allahabad."

In terms of the first proviso to Rule 14, a such Judges of the new High Court, not less than two in number, as the Chief Justice from time to time may nominate shall sit at Lucknow for the purpose of hearing cases arising in such areas in Oudh as the Chief Justice may direct. Accordingly the districts of Lucknow, Faizabad, Sultanpur, Rae Bareilly, Pratapgarh, Gonda, Baharich, Sitapur, Kheri, Hardoi and Unnao, which had been under the jurisdiction of the Chief Court of Oudh, were specified as such areas by the Chief Justice.

The question whether a case arising in the areas in Oudh as specified by the Chief Justice, that is, the districts within the jurisdiction of the Lucknow Bench, can be instituted and heard at Allahabad, arose in the case reported in AIR 1972 Allahabad 200 [Numal Das Khaturia and others Vs. The State Transport (Appellate) Tribunal, U.P., Lucknow, and others]. In answer to the first three questions referred to it the Full Bench held,—

1. A case falling within the jurisdiction of the Judges at Lucknow should be presented at Lucknow and not at Allahabad.
2. If such a case is presented at Allahabad, the Judges at Allahabad cannot summarily dismiss it only for that reason. The case should be returned for filing before the Judges at Lucknow and where the case has been mistakenly and inadvertently entertained at Allahabad a direction should be made to the High Court Office to transmit the papers of the case to Lucknow.
3. A case pertaining to the jurisdiction of the Judges at Lucknow and presented before the Judges at Allahabad cannot be decided by the Judges at Allahabad without an order of the Chief Justice under the second proviso to para 14 of the Amalgamation order.

It is necessary for the purposes of this petition to mention the answers to the remaining questions.

The above decision of the Full Bench was challenged in appeal in the Supreme Court in the case Nasiruddin Vs. S.T.A. Tribunal (AIR 1979 S.C. 331). Their Lordships were of the view:—

- (1). There is no permanent seat of the High Court at Allahabad. The seats at Allahabad and at Lucknow may be changed in accordance with the provisions of the Amalgamation order, 1948.
- (2). The Chief Justice of the High Court has no power to increase or decrease the areas in Oudh from time to time. The areas in Oudh have been determined once by the Chief Justice and, therefore, there is no scope for changing the areas.
- (3). The Chief Justice has power under the second proviso to paragraph 14 of the Amalgamation order to direct in his discretion that any case or class of cases arising in Oudh areas shall be heard at Allahabad. Any case or class of cases are those which are instituted at Lucknow. The interpretation given by the High Court that the word "heard" confers power on the Chief Justice to order that any case or class of cases arising in Oudh areas shall be instituted or filed at Allahabad instead of Lucknow is wrong. The word 'heard' means that cases which have already been instituted or filed at Lucknow may in the discretion of the Chief Justice be directed to be heard at Allahabad.
- (4). With regard to Civil matters, if the cause of action arises wholly within Oudh areas then the Lucknow Bench will have jurisdiction. Similarly, if the cause of action arises wholly outside the specified areas as in Oudh, then Allahabad will have jurisdiction. If the cause of action in part arises in the specified Oudh areas and part of cause of action arises outside the specified areas, it will be open to the litigant to frame the case appropriately to attract the jurisdiction either at Lucknow or at Allahabad."

In the light of the above observations of the Supreme Court, the facts and circumstances of this case may be considered. It is in disputable that the case pertains to an area, namely, Rae Bareilly, which is within the jurisdiction of Lucknow Bench. The entire cause of action as disclosed in the election petition also arose in that area. The election was in respect of Rae Bareilly Constituency. The nomination papers were filed by each of the candidates at Rae Bareilly. The polling as well as counting was held there. The result was also declared there. The alleged corrupt practices were also committed there. As such, the petition should have been presented at Lucknow as provided in the first proviso to Paragraph 14 of the Amalgamation Order and in terms of the decision of the Supreme Court.

In this very connection Rule 3 Chapter XVI, Rules of the Court, may also be considered. It provides

'Every election petition shall be presented to the Registrar.'

The petition shall bear an office report on Court fee and on compliance, in addition to other matters, with sections 81, 82, 83 and 117 of the Act.

The petitioner shall file with the petition a list of all documents, whether in his possession or power or not, on which he relies as evidence in support of his claim.

This rule may prima-facie indicate that as the Registrar has his permanent seat at Allahabad, all election petitions, whether pertaining to the jurisdiction of Allahabad or of Lucknow, should be presented at Allahabad. If the Rule is read with the definition of "Registrar," as given in Rule 3 of Chapter I, Rules of the Court, 1952 such a missing will be dispelled;—

Registrar according to the definition, includes—

- (i) the Joint Registrar at Lucknow in matters relating to Lucknow Bench;
- (ii) The Additional Registrar, the Joint Registrar or any other officer, with respect to such functions and duties of the Registrar as may have been assigned to the Additional Registrar, the Joint Registrar or such Office by the Chief Justice;
- (iii) in the absence of the Registrar, the Additional Registrar, the Joint Registrar or any other Officer authorised to act on his behalf."

In the light of the above definition, Rule 3 of the Chapter XV A means that in respect of matters relating to Lucknow Bench functions of the Registrar are to be performed by the Joint Registrar, Lucknow. An election petition pertaining to Oudh area should, therefore, be presented before the joint Registrar, Lucknow Bench. There is nothing in this Rule which is inconsistent with the provisions of Amalgamation order, of 1948 as interpreted by the Supreme Court.

At this stage the provisions of the Representation of the People Act, 1951, which codifies the law relating to elections may also be considered. The relevant provision in the Act as to presentation of an election petition is to be found in Section 81, which is as follows :—

"Presentation of Petitions.—(1) An election petition of calling in question any election may be presented on one or more of the grounds specified in sub-section (1) of Section 100 and section 101 to the High Court by any candidate at such election or any elector within fortyfive days, from, but not earlier than the date of election of the returned candidate, or if there is more than one returned candidate at the election and the dates of their election are different, the later of those two dates."

The provision lays down (1) that an election petition must be based on any one or more of the grounds specified in sub-section (1) of Section 100, and section 101(2) that the petition should be presented to the High Court which is defined in clause (2)(c) of Section 79 as the High Court within the local limits of whose jurisdiction the election to which the election petition relates has been held (3) that the petition must be by a candidate or by an elector—and (4) that it must be presented within 45 days from the date of the election of the returned candidate. The language of section 81, the Representation of the People Act, 1951 is clear and unambiguous. It confers jurisdiction to entertain an election

petition on the High Court." Within the local limits of whose jurisdiction the election to which the election petition relates has been held. When this section is read with the first proviso to para 14 of the Amalgamation Order, and Rule 3 Chapter XVI, Rules of the High Court, the High Court competent to entertain an election petition relating to an election held within the territories of Oudh is only the Lucknow Bench

The petitioner contended that the petition is to be presented to the High Court under section 81, the Representation of the People Act, and as the principal seat of the High Court is at Allahabad and the Chief Justice is available only at Allahabad the petition was rightly presented at Allahabad. It is a fallacious assumption that Allahabad is the principal seat of the High Court as this contention is inconsistent with law laid down by the Supreme Court in Nasiruddin's case (Supra). Since the petition has to be presented before the Registrar, it is immaterial where the Chief Justice at the moment sits. The role of the Chief Justice to assign the petition to a particular Judge comes into play only at a stage after the presentation.

The present petition was presented before the Additional Registrar, at Allahabad, on 22nd February, 1980 as is evident from the endorsement on the reverse of the petition itself. At the end of the petition there is an inscription to the effect—"Allahabad, dated 22nd February, 1980". At the end of the verification in the petition there is yet another endorsement signed by the petitioner :

"Verified this 22nd day of February, 1980, at Allahabad."

Thus there is unimpeached intrinsic evidence in the petition itself in support of the conclusion that it was presented at Allahabad, not at Lucknow, before the Additional Registrar. Indeed, the petitioner does not dispute this fact. As such the presentation of the election petition in this Court was in contravention of the first proviso to paragraph 14 of the Amalgamation Order, Rule 3 of the Chapter XVI of the Rules of the Court and also of Section 81 of the Representation of People Act, 1951.

It is next to be seen as to what is to be the consequence of such an invalid presentation :—whether the petition is to be returned to the petitioner for presentation at Lucknow, or whether the petition is to be dismissed. The Full Bench in the case of Nirmal Das Khaturia (supra) suggested the following solution in such a situation :

'... If such case (that is, a case falling within the jurisdiction of the Judges at Lucknow) is presented at Allahabad, the Judges at Allahabad cannot summarily dismiss it only for that reason. The case should be returned for filing before the Judges at Lucknow, and where the case has been mistakenly or inadvertently entertained at Allahabad a direction should be made to the High Court Office to transmit the papers of the case to Lucknow."

Besides Rule 10 of Chapter VII, Code of Civil Procedure also empowers the court to return the plaint to be presented to the Court in which the Suit should have been instituted.

The solution suggested by the Full Bench in the case of Nirmal Das Khaturia (supra), is, however, of general application. The reference before the Full Bench arose from two civil petitions and a criminal revision in the High Court. The Full Bench had no matter relating to an election before it and it had no occasion to consider this general principle vis-a-vis the provisions of the Representation Act of People Act in the relevant situation.

The trial of an election petition is not the same thing as the trial of a suit. The right to challenge an election is a right provided by Article 329(b) of the Constitution of India which provides that no election to either House of Parliament or either Legislative Assembly of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature. Section 80 of the Representation of the People Act, 1951 also lays down that no election shall be called in question except by an election petition in accordance with the provisions of this Act. The right to challenge an election, is, therefore, a statutory right, and the terms of that Statute must be complied with :

"The right to elect is statutory and so are all the processes connected with the election. There is no element of any common law right in the process of election "(AIR 1969 S. C. p. 872—K.V. Rao Vs. B.N. Reddi at p. 876)

"The right conferred being a statutory right, the terms of that statute had to be complied with. There is no question of any common law right to challenge an election. Any discretion to condone the delay in presentation of the petition or to absolve the petitioner from payment of security for costs can only be provided under the statute governing election disputes. If no discretion is conferred in respect of any of these matters, none can be exercised under any general law or any principle of equity. This court has held that the right to vote or stands as a candidate for election is not a civil right but is a creature of statute or special law and must be subject to the limitations imposed by it."

(A. I. R. 1973 S. C. page 2464 Charan Lal Sahu Vs. Nand Kishore Bhatt and others at p. 2466).

The above observations were cited with approval in a subsequent case reported in A. I. R. 1974 S. C. p. 840 Hukum Dao Narain Yadava Vs. Lalit Narain Misra at p. 493.

Another reason for inapplicability of the general principle or the provisions under order VII rule 10 C. P. C. is that the Representation of the People Act, 1951 is a complete code in itself and it does not admit of the application of provisions of any other statute unless expressly provided for therein to apply (A. I. R. 1969 S. C. p. 872 and A. I. R. 1974 S. C. 482 Supra)—

In the case Mallappa Bagappa Vs. Basavraj Ayyappa (AIR 1958 S.C. 698) the provisions of order XXIII Rule 1 C.P.C. were held to be in applicable to election petitions. A petition could not, therefore, withdraw or abandon a part of his claim once an election petition was presented to Election Commissioner. Similarly in the case reported in A. I. R. 1969 S. C. 872 (supra) the provisions of Order VI, Rule 17 which gave very wide powers in the matter of allowing amendments of 1908) to the trial of suits" The word "subject to the provisions of section 87(1) of Representation of People Act which made Civil Procedure Code applicable to election petitions in the same manner as it applied to trial of suits, as Section 86(5) of the Representation of the People Act, 1951 provided for restrictions on that power. For the same reason the provisions under Order I rule 10 C. P. C. would not apply if the limitation provided for in section 81 has run out.

The solution of the problem therefore, has to be found in the Representation of the People Act, 1951 itself. Section 87(1) Representation of the People Act, 1951 provides that "subject to the provisions of this act and of any rules made thereunder, every election petition shall be tried by the High Court, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (Act 5 of 1908) to the trial of suits." The word "subject to the provisions of this Act and any Rule made thereunder" impose a restriction on imposing the entire procedure for the trial of suits in the trial of election petitions. Otherwise, also, the provisions in the Representation of People Act being a special law will over-ride such provisions of the general law in the Code of Civil Procedure as are inconsistent with them. It has, therefore, to be seen if there is anything in the Representation of the People Act, 1951 which conflicts with the provisions of Rule 10 of Order X of Code of Civil Procedure. If there is any, the latter will not apply to election petitions.

As has been seen already, section 81, Representation of the People Act read with the definition of High Court in clause (a) of Section 79 requires the election petition to be presented to the High Court within the local limits of whose jurisdiction the election to which the election petition relates has been held Rule 3 in the Chapter XVA, Rules of the Court further provides that an election petition has to be presented before the Registrar which includes the Joint Registrar, Lucknow in matters relating to Lucknow Bench.

Section 86(1) further provides that the High Court shall dismiss an election petition which does not comply with the provisions of section 81, or section 82 of Section 117. The explanation to this sub-section further makes it clear that an

order of the High Court dismissing an election petitions under this sub-section shall be deemed to be an order made under clause (a) of Section 98.

The provisions of sections 81, 82 and 117 read with sub-section (1) of Section 86 have been held to be of mandatory nature with the result that their non-compliance is fatal to the petition. In the case of Hukum Deo Vs. Lalit Narain Misra (A. I. R. 1974 S. C. p. 482 (supra), the Supreme Court observed at page 490 as follows :—

"S. 86 of the Act, Representation of the People, Act, 1951) gives a peremptory command that the High Court shall dismiss an election petition which does not comply with the provisions of Ss. 81, 82 and 117."

At page 493 it has further been observed :—

"If for non-compliance with the provisions of Ss. 82 and 117 which are mandatory, the election petition has to be dismissed under section 86(1) the presentation of election petition within the period prescribed in section 81 could be equally mandatory, the non-compliance with which visits the penalty of the petition being dismissed.

Section 86(1) therefore, by necessary implication excludes the application of the provisions of order VII Rule 10 C. P. C. so far as election petitions are concerned.

The result is that neither the general principles nor the provisions of Order VII rule 10 C. P. C. can be pressed into service to justify an order for return of the petition to the petitioner or for its transmission to Lucknow. The inevitable consequence of invalid presentation of petition is its dismissal under the provisions of Section 86(1) Representation of the People Act.

Again it is futile to return the petition to the petitioner for presentation at Lucknow. Section 81 provides that an election petition is to be presented within 45 days from the election of the returned candidate. The period of limitation as given in the Section 81 has already run out. The Act does not empower the Court to condone the delay. It is well settled law that the provisions of the Indian Limitation Act, 1963 are not applicable to an election petitioner :—

"The Limitation Act cannot apply to proceedings like an election petition in as much as the Representation of the People Act, is a complete and self-contained code which does not admit of the introduction of the principles or provisions of law contained in the Limitation Act". (A. I. R. 1969 S. C. 872).

The same view was taken in the case of Hukum Deo Yadav Vs. Lalit Narain Misra (A. I. R. 1974 S. C. 480).

There can be no manner of doubt that the petition was not presented before a proper court and, therefore, it must necessarily be dismissed as provided in section 86(1), Representation of the People Act, 1951.

VAGUENESS OF THE PLEAS OF CORRUPT PRACTICE :

Section 83(1) of the Representation of the People Act, 1951 provides that an election petition (a) shall contain a concise statement of the material facts on which the petitioner relies and (b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice.

The distinction between the "material facts" and "particulars" was pointed out by the Supreme Court in the case of Uday Singh Vs. M. R. Scindia (A. I. R. 1976 page 744) as follows :—

"All the primary facts which must be proved at the trial by a party to establish the existence of a cause of action or his defence, are "material facts". In the context of a charge of corrupt practice "material facts" would mean all the basic facts constituting the ingredients of the particular corrupt practice alleged, which the petitioner is bound to substantiate before he can succeed on that charge. Whether in an election petition, a particular fact is material or not, and as such required to be pleaded is a question which depends on the nature of the charge levelled, the ground relied upon and the special circumstances of the case. In short all those facts which are essential to clothe the petitioner with a complete cause of action, are "material

"facts" which must be pleaded and failure to plead even a single material fact amounts to disobedience of the mandate of section 83(1)(a).

"Particulars", on the other hand, are "the details of the case set up by the party." "material particulars", within the contemplation of clause (b) of Section 83(1) would therefore, mean all the details which are necessary to amplify, refine and embellish the material facts already pleaded in the petition in compliance with the requirements of clause (a). 'Particulars' have serve the purpose of finishing touches to the basic contours of a picture already drawn, to make it full, more detailed and more informative."

It was also pointed out that clause (a) of Section 86 corresponded with Order VI Rule 2 C. P. C. while Clause (b) was analogous with order VI Rules 4 and 6 C. P. C. and that distinction between "material facts" and "particulars" was important because different consequences may flow from the deficiency from such facts or particulars :

"Failure to plead even a single material fact leads to an incomplete cause of action and incomplete allegations or such a charge are liable to be struck off under order VI, Rule 16, Code of Civil Procedure. If the petition is based solely on those allegations which suffer from lack of material facts, the petition is liable to be summarily rejected for want of a cause of action. In case of a petition suffering from a deficiency of material particulars, the court has a discretion to allow the petition to supply the required particulars even after the expiry of limitation."

Similarly in A. I. R. 1969 S. C. 1201 (Samant N. Balkrishna Vs. George Fernandes) at page 1212 the Supreme Court observed :—

"The section (83 Representation of the People, Act 1951), is mandatory and requires first a concise statement of material facts and then requires the fullest possible particulars. What is the difference between material facts and particulars ? The word 'material' shows that the facts necessary to formulate a complete cause of action must be stated. Omission of a single material fact leads to an incomplete cause of action and the statement of claim becomes bad. The function of particulars is to present as full a picture of the cause of action with such further information in details as to make the opposite party understand the case he will have to meet. There may be some overlapping between material facts and particulars but the two are quite distinct. Thus the material facts will mention that a statement of fact (which must be set out) was made and it must be alleged that it refers to the character and conduct of the candidate believed to be false or does not believe to be true and that it is calculated to prejudice the chances of the petitioner. In the particulars the name of the person making the statement, with the date, time and place, will be mentioned. The material facts thus will show the ground of corrupt practice and the complete cause of action and the particulars will give the necessary information to present a full picture of the cause of action. In stating the material facts it will not do merely to quote the words of the section because the efficiency of the words "material facts" will be lost. The fact which constitutes the corrupt practice must be stated and the fact must be correlated to one of the heads of corrupt practice. Just as a plaint without disclosing a proper cause of action cannot be said to be a 'good plaint', so also an election petition without the material facts relating to a corrupt practice is no election petition at all".

In A.I.R. 1972 S.C. 1302 (Raj Narain Vs. Indira Gandhi) the Supreme Court at page 1306 affirmed the law laid down in Samant's case :—

"Dealing with the scope of Ss. 83 and 86(5), this Court observed that S. 83 requires that the petition must contain a concise statement on the material facts on which the petitioner relies and the fullest possible particulars of the corrupt practice alleged. "Material facts" and "particulars" may overlap but the word 'material' shows that the ground of corrupt practice and the facts necessary to formulate a complete cause of action must be stated. The function of the particulars is to present as full a picture of the cause of action as to make the opposite party under-

stand the case he will have to meet. Under Section 86(3), if corrupt practice is alleged in the petition, the particulars of such corrupt practice may be amended or amplified for ensuring a fair and effective trial, that is, more and better particulars of the charge may be given later, even after the period of limitation, but if a corrupt practice is not previously alleged in the petition, an amendment which will have the effect of introducing particulars of such a corrupt practice will not be permitted, after the period of limitation, because it would tantamount to making a fresh petition."

Again in A.I.R. 1972 S.C. page 515 (Hardwari Lal Vs. Kanwal Singh) the view taken in Samant's case was endorsed at page 519.

"Hidayatullah, C.J. speaking for the Court, laid down these propositions. First, Section 83 of the Act is mandatory and requires first a concise statement of material facts and then requires the fullest possible particulars. Second, omission of a single material fact leads to an incomplete cause of action and the statement of claim becomes bad. Third, the function of particulars is to present in full a picture of the cause of action to make the opposite party understand the case he will have to meet. Fourth, material facts and particulars are distinct matters. Material facts will mention statements of fact and particulars will set out the names of persons with the date, time and place. Fifth, material facts will show the ground of corrupt practice and the complete cause of action and the particulars will give the necessary information to present a full picture of the cause of action. Sixth, in stating the material facts it will not do merely to quote the words of the section because than the efficacy of the material facts will be lost. The fact which constitutes a corrupt practice must be stated and the fact must be correlated to one of the heads of corrupt practice. Seventh, an election petition without the material facts relating to a corrupt practice is no election petition at all."

Lastly, in 1970 (3) S.C.C. Page 239 (Nihal Singh Vs. Rao Birendra Singh) the Supreme Court observed at page 244 :

"There was a vague and general statement that, at meetings in different villages, speeches, were given between the 5th and 12th of May, 1968. There was no specification at all as to date and place at which each meeting took place as required by section 83 of the Act. The pleading was so vague that it lefts a wide scope to the appellant to adduce evidence in respect of a meeting at any place on any date that he found convenient or for which he could procure witnesses. The pleadings, in fact, was so vague and was wanting in the essential particulars that no evidence should have been permitted by the High Court on this point."

The charges of corrupt practices under section 123, Representation of the People Act, 1951 being of quasi-criminal nature (vide A.I.R. 1973 S.C. 2158 Manphul Singh-Vs. Surontra Singh), the pleadings should be precise and specific so that the person charged against may not have any misgiving about them and be able to meet them. Further, such a charge must be proved beyond reasonable doubt like any charge of an offence.

In the light of the principles mentioned above, the allegations of corrupt practice in each para of the petition have to be examined.

The charges of corrupt practice are mentioned in paragraphs VIII to XXVIII. The allegations in each of the said paragraphs may be considered in their serial order in order to determine whether material facts and particulars furnished therein are sufficient in the eye of law.

Para VIII of the petition does not refer to any particular corrupt practice. It says in general terms that 'on account of the corrupt practices committed by the respondent no. 1 through her employees including election agent' the election be declared void. The names of the employees and of the election agent have not been specified. It is, therefore, vague and it is difficult for the respondent no. 1 to answer it.

In paragraphs IX and X of the petition the corrupt practice of undue influence as defined in sub-section (2) of section 123 Representation of the People Act seems to have been alleged. In paragraph 9 it is alleged that the respondent no. 1 induced to believe the voters that her life will be in danger if she is not returned and that statements to that effect were published in newspapers. The voters could not, therefore, exercise their votes freely. The plea is also wanting in material particulars. It is not disclosed as to how, that is whether by speeches or by pamphlets or otherwise, the respondent no. 1 induced the voters. It is also not specified as to where the respondent no. 1 gave such inducement and in which newspapers the alleged statements were published. Time and date of the inducement are also wanting. The term 'statement' in relation to newspapers is also vague. It is left for guessing what is means. It is not specified whether the so-called statements were made by the respondents to the newspapers for publication or the newspapers merely published her election speeches at any particular place. Nor has the petition filed any copy of any newspaper containing the alleged statement. In the circumstances the plea in this paragraph is also vague.

In paragraph 10 there is no fresh plea. It merely state that on account of backwardness of the people of the constituency they were misled by the above inducement.

In paragraph XI a reference is made to the election symbol of the respondent no. 1 which was 'hand'. It is further alleged that the five fingers symbolised the five Pandavas for the Hindus and five time prayer to the Muslims. Accordingly the votes were secured on the ground of religion. In paragraph XIV also it is alleged that the symbol of 'hand' was made to represent as divine hand and that the voters were asked to vote for the same. It seems that the petitioner thereby pleaded the corrupt practice mentioned in Sub-Section (3) of Section 123 of the Representation of the People Act, 1951. The proviso to sub-section (3), however, does not permit him to take such a plea. It reads :

"Provided that no symbol allotted under this Act to a candidate shall be deemed to be a religious symbol or a national symbol for the purposes of this clause."

In the case Raman Dabi Vs. Delhi Ajit Kumar (A.I.R. 1965 S.C. 669) the Supreme Court held that representation of the election symbol of star as "eternal, firm guide, determined devoted to religion" did not amount to corrupt practice. Similarly in B. P. Maurya Vs. Prakash Vir Shastri (37 E.L.R. 137) the election symbol of Cow and Calf was not accepted as a religious symbol.

The words "the voters of Rae Bareilly were canvassed" etc. are vague as the person or persons who canvassed and the time and date are not disclosed.

In paragraph XII the allegation is that the respondent No. 1 claimed to be "Annadata" in the sense that she had a divine power to feed the entire humanity. Para 13 refers to paragraphs XI and XII and says that the respondent committed the corrupt practice by making religious appeal. The word "Annadata" does not signify that one who claims to be so has a divine power to feed. The alleged circumstances and situation in which the word as used to convey the said meaning have not been specified. It is also not mentioned as to where and when she claimed to be "annadata". Nor is it mentioned whether she claimed to be so in her speeches or in pamphlets.

In paragraph XV it is alleged that the respondent incurred expenses in excess of legally permitted expenditure. In Paragraph XVI numbers of trucks, cars, motorcycles and Jeeps have been given. It is stated that on 31st December, 1979 the roads of Rae Bareilly were blocked by those vehicles so much so that it was difficult for any one to pass. It is not stated that these vehicles had been employed by the respondent No. 1, or her election agent or by any person with her consent or the consent of her election agent as provided in Sub-section (5) of Section 123 the Representation of the People Act. It is further alleged that the vehicles were full of employees of respondent No. 1. However, the names of such employees are not disclose. Particulars of other 100 vehicles alleged to have been engaged are also wanting. It is also not stated that the amount stated to have been spent on those vehicles had

been paid by her. The petitioner also alleged that in two days a sum of Rs. 13,02,800 had been spent. The particulars of this expenditure are lacking. Thus the allegations are vague and it is too difficult for the respondent to controvert them.

In Paragraph XVIII to XXV the petitioner has further made allegations of corrupt practice as defined in Sub-Section (6) of Section 123, Representation of the People Act. In Paragraph XVII an expenditure of Rs. 5,00,000 is alleged to have been incurred on banners with photographs of the respondent No. 1. It is not disclosed as to who got them printed "with the consent of the respondent no. 1. The details of the expenditure are also lacking. In paragraph XVIII a sum of Rs. 7,00,000 is alleged to have been spent over hand bills and posters which had been published and widely distributed in the constituency. It does not disclose who got them published and where and when they were published. The particulars of the amount of Rs. 7,00,000 are not given. As such, it appears to be an imaginary figure. It is also not mentioned as to who got them published and distributed with the consent of the respondent no. 1.

In Paragraph XIX the respondent is alleged to have got one lakh dummy ballot papers printed and the same were distributed in the constituency. The cost of dummy ballot papers is said to be Rs. 25,000 but there is no allegation that this amount was spent by respondent no. 1. or his election agent or any other person with the consent of either of them. The particulars as to their printing and distribution are also not given.

In Paragraph XX it is alleged that the respondent no. 1 campaigned for 21 days and that she engaged employees and vehicles and spent Rs. 6,25,000 thereon. Neither the number of employees nor their names are specified. Nor have the particulars of the vehicles been given. The amount alleged to have been spent in imaginary. It is only a surmise that average expenditure per day was Rs. 25,000.

In Paragraph XXI the allegation is that expenditure on petrol per vehicle was Rs. 150 and therefore, a sum of Rs. 37,500 was spent on it. In paragraph XXII the allegation is that expenditure on employees on election day was Rs. 20,000 and in paragraph XXIII it is alleged that the total expenditure came to Rs. 32,10,300 whereas she could spend only Rs. 1,00,000. These allegations are also vague. It is not made clear as to how the expenses on petrol or on employees were calculated, how many were the vehicles and how many were the employees and who they were. It is not mentioned whether these vehicles and employees were employed by the respondent no. 1, or her agent or with the consent of either of them.

The petitioner contended that whatever material facts and particulars he has given in the petition were sufficient. He has not, in spite of notice, claimed that an opportunity to furnish better particulars be given. As shown, above, pleadings relating to corrupt practice are vague, material facts and particulars as required in Section 83(1) Clauses (a) and (b) Representation of the People Act being missing. The Pleas in paragraphs VIII to XXVIII therefore, deserve to be struck off. The petition does not give rise to triable issues and discloses no cause of action.

B. Petition Has Become Infractions :—

The petitioners has prayed for the following reliefs:—

- (a) to accept this election petition;
- (b) to declare the election of respondent no. 1 void from 23. Rae Bareilly Parliamentary Constituency void under section 100(1)(b) of the Act;
- (c) Declare that the respondent no. 1 has committed the corrupt practice under the Act and disqualify the respondent no. 1 for the period of six years as per the provisions of the Act (section 123 of the Act).
- (d) declare the respondent no. 2 as duly elected from 23. Rae Bareilly Parliamentary Constituency :—
- (e) award costs of the proceedings;
- (f) stay the bye election to be held on 24-2-1980.

It would appear that as against respondent no. 1, the petitioner has claimed :—

- (i) a declaration that her election to Rae Bareilly Constituency is void;
- (ii) a declaration that she has committed corrupt practices as specified in the various paragraphs of the petition : and
- (iii) disqualification of the respondent no. 1 for a period of six years.

Section 98, the Representation of the People Act, empowers the High Court to dismiss the election petition or to declare the election of all or any of the returned candidates to be void. It also empowers it to declare the petitioner or any other candidate to have been duly elected. Thus reliefs (b) and (d) in the petition are covered by this provision :

Section 99, the Representation of the People Act further enjoins upon the High Court to make an order, were any charge is made in the petition of any corrupt practice having any corrupt practice has or has not been proved to have been committed at an election, recording a finding whether any corrupt practice has or has not been proved to have been committed. The petitioner in clause (c) above has claimed such a declaration. A portion of this relief, is, therefore, covered by the provisions of section 99, the Representation of the People Act.

The other portion of relief (c) is the petition—namely, disqualification of the respondent no. 1 for six years cannot be granted by this Court in view of the Provisions of section 8A, the Representation of the People Act which is as follows ;

84. Disqualification on ground of corrupt practices :—

(1) The case of every person found guilty of a corrupt practice by an order u/s 99 shall be submitted, as soon as may be, after such order takes effect, by such authority as the Central Government may specify in this behalf, to the president for determination of the question as to whether such person shall be disqualified and if so, for what period. Provided that the period for which any person may be disqualified under this sub-Section shall, in no case exceed six years from the date on which the order made in relation to him under section 99 takes effect.

(2) Any person who stands disqualified u/s 8A of this Act as it stood immediately before the commencement of the Election Laws (Amendment) Act, 1975 (40 of 1975), may, if the period of such disqualification has not expired, submit a petition to the President for the removal of such disqualification for the unexpired portion of the said period.

(3) Before giving his decision on any question mentioned in sub-section (1) or on any petition submitted under sub-section (2), the President shall obtain the opinion of the Election Commission on such question or petition and shall act according to such opinion.

Notification no. S.O. 367(E), dated 25th May, 1976, published in the Gazette Extraordinary, Govt. of India, Ministry of Law, Justice and Company Affairs issued under S. 8A. of the Representation of the people Act, specifies the Secretary General of the House of the People as the authority for the purposes of sub-section (1) of Section 8A aforesaid.

The effect of Section 8A of the Representation of the People Act read with this notification is that after the High Court has given a finding that such and such person is guilty of a corrupt practice at an election, the Secretary General would bring this finding to the notice of the President who shall determine the question whether such a person should be disqualified and if so, for what period.

Section 8A was introduced by Act, XL of 1973. Before this section was brought on the statute, disqualification for six years was a necessary consequence of the finding of a corrupt practice. The effect of Section 8A is that 'disqualification' is to take place in the manner provided therein. In this view of the provision, it cannot be said that 'disqualification' having been taken away from the jurisdiction of the Court, it is an exercise in futility to give a finding that a corrupt practice has been committed. The Legislature, in its wisdom has done away with the provision of "disqualification" taking effect automatically once a finding of corrupt practice has been rendered. Instead it has provided

a procedure as to how and by whom the same will be done. The contention of the learned counsel for the respondent no. 1 that it is an exercise in futility to give a finding of corrupt practice once the powers of disqualification has been taken away, does not appear to be sound. There may be cases in which it might be worth-while to give such a finding. As for instance, where the petitioner not only furnishes "material facts" and "necessary particulars" in his petition but proves the same also, it will be incumbent on the court to give such a finding. Action contemplated in Section 8A will depend on such a finding which is final as fares it goes.

The petitioner contended that Section 8A, the Representation of the People Act was ultra vires the Constitution. He was unable to elaborate as to how this was so. For the purposes of this case, it is unnecessary to decide it. It may, however, be pointed that even if Section 8A was not on the Statute, the petitioner's position will not improve. Even then the Court will give a finding in the appropriate case of corrupt practice having been committed but there will be none to take action on the basis of that finding and the same will in fact, be an exercise in futility. In the present state of law the provisions of Section 8A cannot be said to be wholly unnecessary.

Coming to the question whether the relief (c) could be granted to the petitioner. While dealing with the allegations in the petition regarding corrupt practice it has been pointed out already that the petition is wanting in "material facts" and "necessary particulars" in respect of corrupt practices. As such, there is no triable issue in the petition and no cause of action has been made out therein. As such, the relief of declaration of corrupt practice having been committed by respondent no. 1 could not be granted to the petitioner. The other part of the relief, namely, disqualification for six years is neither within the power as this Court nor could it be granted in the absence of a proper cause of action.

Regarding the relief of declaration of the election of respondent no. 1 as void, it has been contended that she vacated the Rae Bareilly seat even before the petition was filed. For this reason as well as for the reason that no cause of action has been disclosed in the petition and no triable issue is involved therein, this relief also could not be granted to the petitioner.

As to the relief that respondent no. 2 be declared elected from the Rae Bareilly seat, learned counsel for respondent no. 1 contended that the respondent no. 1 having resigned from that seat, the Election Commission declared it vacant, that an election to that seat was held on 24-2-1980 and that Sree Arun Nehru was declared elected. In the circumstances the declaration could not be granted as there will be in that event, two-occupants of the seat.

The petitioner contended that once the election of the Respondent No. 1 had been challenged in a petition, the Election Commissioner could not hold an election. This contention, however does not stand scrutiny, Section 149, the Representation of the People Act, provides :—

"Section 149 : Casual vacancies in the House of the people."

- (1). When the seat of a member elected to the House of the People becomes vacant or is declared vacant or his election to the House of the People is declared void, the Election Commission shall, subject to the provisions of sub-section (2), by a notification in the Gazette of India, call upon the Parliamentary constituency concerned to elect a person for the purpose of filing the specified vacancy so caused before such date as may be specified in the notification, and the provisions of this Act and of the rules and orders made there under shall apply, as far as may be in relation to the election of a member to fill such vacancy.
- (2) If the vacancy so caused be a vacancy in a seat reserved in any such constituency for the Scheduled Castes or for any Scheduled Tribes, the notification issued under sub-section (1) shall specify that the person to fill that seat shall belong to the Scheduled Castes or to such Scheduled Tribes, as the case may be.

According to this Section the Election Commission is enjoined to hold an election if a seat in the House People becomes vacant.

Article 101(3) (b) constitution of India provides that if a member of the House of people resigns his seat by writing under his hand addressed to the Speaker and his resignation is accepted by the Speaker, his seat shall be vacant. It is not disputed as a fact, that the respondent No. 1, having been elected to the House of the People from two constituencies, resigned from the Rae Bareilly seat. It is not contended that her resignation was not accepted by the Speaker. As such the Rae Bareilly seat became vacant under the provisions of Articles 101(3) (b), constitution of India and the Election Commission, under the provisions of Section 149, the Representation of the People Act, was bound to hold an election.

Relief (d), namely declaration of respondent No. 2 as duly elected to Rae Bareilly Constituency, could also not be granted unless the election of Shri Arun Nehru is declared void. There is no such prayer in this petition. Nor has the petitioner filed any election petition challenging his election.

Section 80, the Representation of the People Act provides that no election shall be called in question except by an election petition presented in accordance with the provisions of this Act :—

Section 80-Election Petitions

No election shall be called in question except by an election petition presented in accordance with the provisions of this part.

Similarly, Article 329(b), Constitution of India prohibits challenging an election except by means of an election petition.

"Art.329(b)—No election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature." Relief (a) and (e) are general which would have followed if other reliefs were allowed. Relief (f) can also not be granted as election has already been held and result declared.

For the above reasons, therefore, none of the reliefs claimed by the petitioner can be granted to him.

4. Formal Defects in the Petition :—

Section 83(1)(c) Provides that a petition shall be signed by the petitioner and verified in the manner laid down in the Code of Civil procedure, 1908 for the verification of pleadings. The proviso to the clause further adds that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.

Rule 14 of order VI C.P.C. provides that every pleading shall be signed by the party and his pleader, if any, provided that where a party pleading is, by reason of absence or for other good cause, unable to sign a pleading, it may be signed by any person a duly authorised by him to sign the names or to sue or defend on his behalf. The petition has been signed by the petitioner on every page but the signatures of the petitioner on the last page after the prayer and before verification are wanting. Learned counsel for the respondent No. 1, therefore, contended that the petition was not a petition in the eye of law. In the course of arguments, the petitioner sought permission to sign the petition. It may also be mentioned that on the same page at the end of verification the petitioner has signed. It appears that it was only an accidental slip that he did not sign at the foot of the petition in between the prayer and verification portions, shall be.

Rule 15 of order VI C.P.C. provides that every pleading shall be verified at the foot by the party or by one of the parties pleading, or by some other person proved to the

satisfaction of the Court to the acquainted with the facts of the case. Sub-section (2) further lays down that the person verifying shall specify, by reference to the numbered paragraphs of the pleading, what he verifies of his own knowledge and what he verifies upon information received and believed to be true. The verification at the foot of the petition is to the effect :—

"Verification :

I, Bhagwan Singh Madhav Singh Alsinghani, petitioner do hereby verify that the same statements made in the petition are true to the best of my own knowledge and some are true on information received and believed to be true and that some are true to the experience and the prayer clause being submissions made to the Hon'ble Court need no verification.

Verified this 22nd day of February, 1980 at Allahabad."

It has been pointed out that in the manner required by the provisions under order VI Rule 15 C.P.C. the petitioner has not verified with reference to each paragraph in the petition that is which of them were true to his own knowledge and which were true upon the information received and believed to be true. No doubt, the verification at the foot of the petition suffers from the defect as pointed out by the learned counsel for the petitioner.

The provisions relating to affidavit is to be found in order XIX of Code of Civil Procedure, 1908. A form of the affidavit is given under rule 11 (A), thereof. The affidavit filed by the petitioner does not comply with the provisions of Order XIX C.P.C. He has not stated which of the paragraphs relating to corrupt practice were true to his own knowledge and which were true according to the information received by him and believed to be true by him. The name of the person from whom the information received has also not been disclosed. Evidently, therefore, the affidavit is also defective.

It may, however, be pointed out that these defects are not to be visited by penalty of dismissal under the provisions of Representation of the People Act, 1951. Section 86 of the Act allows dismissal of the election petition at a preliminary stage only if it does not comply with the provisions of sections 81, 82 and 117 of the Act. Section 83 does not find place therein. It is, therefore, implied that the penalty of dismissal is not to be visited even if the petitioner fails to comply with the defects mentioned in Clause (c) of sub-section (1) of Section 83 of the Representation of the People Act. The defects pointed out by the learned counsel for the respondent no. 1, are curable, but for the infirmities mentioned earlier, the petitioner would have been given an opportunity to remove them.

ORDER

The petition is dismissed as it was not presented before the proper Court, it does not give rise to triable issues and it does not disclose any cause of action. Respondent no. 1, who alone has contested the petition shall get costs from the petitioner.

The Registrar is directed to inform the Election Commission and the Speaker, House of the People of the Order and shall also send a copy of the order to each of them forewith.

Dated : August, 12, 1980.

J. P. CHATURVEDI, Judge.

[No. 82/UP/12/80(Alld)(1)]

का० आ० 3221—1980 का निवाचन मर्जी सं० 12 में इसाहारात उच्च न्यायालय के तारीख 12 अगस्त, 1980 को निर्णय के बिल्ड 1980 की सिविल मर्पील सं० 1991 (एन० सी० ई०) में भारत के उच्चतम न्यायालय के सारीख 22 सितम्बर, 1980 के भावेश को लोक प्रतिनिधित्व अधिनियम, 1951 की धारा 116 ग की उप-धारा (2) के उच्च (ब) के घनुसरण में, निवाचन भागीद का इसके द्वारा प्रकाशित करता है।

आवेदन से,
क० गोपेश, सचिव,
भारत निर्वाचन आयोग।

S.O. 3221.—In pursuance of clause (b) of sub-section (2) of section 116C of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby publishes the order of the Supreme Court of India, dated the 22nd September, 1980 in Civil Appeal No. 1991 (NCE) of 1980 from the judgement dated the 12th August, 1980 of the High Court of Judicature at Allahabad in Election Petition No. 12 of 1980

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 1991 OF 1980

Bhagwan Singh Madhav Singh Ailsinghani Appellant
Vs.

Mrs. Indira Gandhi and Ors. Respondents.

ORDER

The appeal is allowed to be withdrawn.

Sd/— C. J.
(Y V CHANDRACHUD)
Sd/— J.
(R. S. PATHAK)
Sd/— J.
(O CRINNAPPA REDY)

New Delhi, September 22, 1980.

[No. 82/UP/12/80(Ald)(2)]

K. GANESAN, Secy. Election Commission of India

आदेश

नई दिल्ली, 16 अक्टूबर, 1980

का०प्रा० 3222—यस, निवाचन प्रायोग का समाधान हो गया है कि अनेक 1980 मे यह विधान सभा के लिए साधारण निवाचन के लिए 30 पोंगबोऊ वक्ता निवाचन क्षेत्र से भुनाऊ लड़ने वाले उम्मीदवार श्री एचिंग वंगम पो०प्रा० पोंगबोऊ वाया लोगडिंग, तिराप जिला, अरुणाचल प्रदेश। लोक प्रतिनिधित्व प्रधिनियम, 1951 तथा तवधीन बनाए गए नियमों द्वारा आपेक्षित अपने निवाचन व्ययों का कोई भी लेज्या वालिस करने से भ्रसफल रहे हैं,

और यत्, उक्त उम्मीदवार ने, सम्पूर्ण सूचना विए जाने पर भी, इस भ्रसफलता के लिए कोई कारण अधिकार नहीं दिया है और निवाचन प्रायोग का यह समाधान हो गया है कि उसके पास इस भ्रसफलता के लिए कोई पर्याप्त कारण या न्यायोचित नहीं है,

अत अब, उक्त अधिनियम की धारा 10-के अनुसरण मे निर्वाचन प्रायोग एतद्वारा उक्त श्री पोंगबोऊ वक्ता का संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा परिषद के सदस्य बूझे जाने और होने के लिए, इस प्रदेश की तानीश से तीन अर्ध की कालावधि के लिए निरर्दित घोषित करता है।

[भ०-76/प्रलगाचस-वि०स०/30/80]

आवेदन से,
सतीश अर्द्ध, अबर सचिव
भारत निवाचन प्रायोग

ORDER

New Delhi, the 16th October, 1980

S.O. 3222.—Whereas the Election Commission is satisfied that Shri Aching Wangham, P.O. Pongchau, Via- Longding, Tirap District, Arunachal Pradesh a contesting candidate for general election to the Arunachal Pradesh from 30 Pongchau Wakka constituency, held in January, 1980, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas the said candidate, even after due notice has not given any reason or explanation for the failure and the Election Commission is further satisfied that he has no good reason or justification for such failure,

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Aching Wangham, to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. 76/ARUN-LA/30/80]

By Order,
S C JAIN, Under Secy.
to the Election Commission of India.

नागरिक पूति भ्रस्तालय

भारतीय मानक संस्था

नई दिल्ली, 28 अक्टूबर, 1980-10-28

का०प्रा० 3223—समय-समय पर संशोधित भारतीय मानक संस्था (प्रमाणित चिह्न) विनियम, 1955 के विनियम 3 के उपविनियम (4) के मध्येन प्राप्त अधिकारों के अनुसार भीचे अनुसूची मे जिस I- 6385-1978 के ब्यौरे दिए गए हैं, उसके उपबंधों मे मानक चिह्न के उपयोग मे गति लाने के उद्देश्य से परीक्षात्मक रूप मे संशोधन किए गए हैं। इन संशोधनों के द्वारा भारतीय मानक के अनुरूप बने माल की गुणता पर कोई प्रभाव नहीं पड़ेगा, यह अविस्तृता तुरन्त ही लागू हो जाएगी।

अनुसूची

क्रम सं
भारतीय मानक की संख्या और शीर्षक जिसके उपबंध मे संशोधन
किया गया है

उपबंध मे किए गए संशोधनों का विवरण

1 IS 6385-1978 सैकरीन, खाद्यप्रोड की विशिष्टि
(पहला पुनरीक्षण)

(पृष्ठ 4, खण्ड 2 2 1)-खण्ड मे से निम्नलिखित गम्ब दृष्टा दिए जाएं,
“उबलते पानी (पीएच 6 8 से 6 9) के 25 मिली मे”

[स० सीएमडी/13 . 4]

ए० क० गुप्ता, भ्रस्तालय

**MINISTRY OF CIVIL SUPPLIES
INDIAN STANDARDS INSTITUTION**

New Delhi, the 1980-10-28

S. O. 3223.—In exercise of the powers conferred on me under sub-regulation (4) of regulation 3 of the Indian Standards Institution (Certification Marks) Regulation, 1955, as amended from time to time, modifications to the provisions of IS : 6385-1978, details of which are mentioned in the Schedule given hereafter, have tentatively been made a view to expediting the use of the Standard Mark, without in any way affecting the quality of goods covered by the relevant Standard. This notification shall come into force with immediate effect.

SCHEDULE

Sl.No.	No. and Title of Indian Standard the provisions of which have been modified	Particulars of the Modifications made to the provisions
1	2	
1.	IS : 6385-1978 Specification for saccharin, food grade (first revision)	(Page 4, Clause 2.2.1)—Delete the following words from the clause: 'in 25 ml of boiling water (pH 6.8 to 6.9).'

[No. CMD/13 : 4]
A. K. GUPTA, Director General

नई विली, 1980-10-31

का० आ० 3224.—समय-समय पर संशोधित भारतीय मानक संस्था (प्रमाणन चिह्न) 1955 के विनियम 14 के उपविनियम 4 के ग्रन्तुमार भारतीय मानक संस्था की ओर से अधिसूचित किया जाता है कि लाइसेंस संस्था सीएम/एल-8492 जिसके बारे नीचे ग्रन्तुमार से दिए गए हैं, वह पहली प्रत्रैल, 1980 से रह कर दिया गया है।

ग्रन्तुमार

क्रम सं०	लाइसेंस सं० और तिथि	लाइसेंसधारी का नाम और पता	रद्द किए गए लाइसेंस के अधीन वस्तु/ प्रक्रिया	नस्तव्यन्धी भारतीय मानक
(1)	(2)	(3)	(4)	(5)
1.	सीएम/एल-8492 1980-03-19	मैसर्स स्टर्लिंग पेस्ट्रीसाइर्क्स डी-३, डेवलोप्मेंट प्लाट्ट,	जिराम जल परिषेपी चूर्ण की रिपैकिंग	IS : 3901-1975 जिराम जल परिषेपी चूर्ण सान्द्र की विशिष्टि (पहला पुनरीक्षण)
		इंडस्ट्रियल इस्टेट, तुवकुड़ी, तिरुचिरापल्ली-620015		

[स० सीएमडी/55 : 8492]
ए० पी० बनर्जी, अपर महानिवेशक

New Delhi, the 1980-10-31

S.O. 3224.—In pursuance of sub-regulation (4) of regulation 14 of the Indian Standards Institution (Certification Marks) Regulation 1955 as amended from time to time, the Indian Standards Institution hereby notifies that Licence No. CM/L-8492 particulars of which are given in the Schedule below has been cancelled with effect from First April, One Thousand Nine Hundred and Eighty.

SCHEDULE

Sl. No.	Licence No. and Date	Name and Address of the Licensee	Article/Process covered by the Licence Cancelled	Relevant Indian Standards
1. CM/L-8492	1980-03-19	M/s Sterling Pesticides, D-3, Developed Plots, Industrial Estate, Thuvakudy, Tiruchirapalli-620015	Repacking of Ziram WDP	IS : 3901-1975 Specification for Ziram Water Dispersible Powder Concentrates (1 Revision)

[No. CMD/55 : 8492]
A. P. BANERJI, Additional Director General

पेट्रोलियम, रसायन और उर्वरक मंत्रालय
(पेट्रोलियम विभाग)

नई दिल्ली, 27 प्रबुद्धवर, 1980

का० आ० 3225—यतः पेट्रोलियम और अनिंज पाइपलाइन (भूमि के उपयोग के अधिकार का अर्जन) प्रधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के प्रधीन भारत सरकार के पेट्रोलियम, रसायन और उर्वरक मंत्रालय (पेट्रोलियम विभाग) की प्रधिसूचना का० आ० सं० 1313 तारीख 11-4-80 द्वारा केन्द्रीय सरकार ने उस प्रधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पाइप लाइनों को विभाने के प्रयोजन के लिए अर्जित करने का अपना आशय घोषित कर दिया था;

और यतः सक्षम प्राधिकारी ने उक्त प्रधिनियम की धारा 6 की उपधारा (1) के प्रधीन सरकार को रिपोर्ट दे दी है;

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस प्रधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है;

अब, यतः उक्त प्रधिनियम की धारा 6 की उपधारा (i) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस प्रधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन विभाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है;

और आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निवेद देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने के बजाय तेल और प्राकृतिक गैस आयोग में, सभी आधारों से मुक्त रूप में, शोषण के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

झालोरा-13 से झालोरा-9 तक पाइप लाइन विभाने के लिए।
राज्य:-गुजरात जिला:-मेहसाना तालुका:-कड़ी

गांव	सर्वे नं०	हेक्टेयर	एकार्ट	सेटीयर
करसम पुरा	18	0	03	75
कार्ट ट्रैक	0	01	00	
19	0	15	60	
20	0	06	00	
81/1	0	21	23	
81/ए	0	04	50	
81/बी	0	20	25	
62	0	12	75	
63	0	04	50	
64	0	03	00	

[सं० 12016/13/80-प्र०II]

MINISTRY OF PETROLEUM, CHEMICALS & FERTILIZER

(Department of Petroleum)

New Delhi, the 27th October, 1980

S.O. 3225.—Whereas by a notification of the Government of India in the Ministry of Petroleum, S.O. No. 1312 dated 16-4-80 under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline;

And whereas the Competent Authority has under Sub-section (1) of Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipelines;

And further in exercise of power conferred by Sub-section (4) of that Section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil and Natural Gas Commission free from encumbrances.

SCHEDULE

Pipeline from Jhalora 13— to Jhalora-9.
State : Gujarat District : Mehsana Taluka : Kadi

Village	Survey No.	Hec-tare	Are	Centi-metre
Karsanpura	18	0	03	75
	Cart track	0	01	00
	19	0	15	60
	20	0	06	00
	81/1	0	21	23
	81/A	0	04	50
	81/B	0	20	25
	62	0	12	75
	63	0	04	50
	64	0	03	00

[No. 12016/13/80-Prod-II]

नई दिल्ली, 31 प्रबुद्धवर, 1980

का० आ० 3226.—यतः पेट्रोलियम और अनिंज पाइपलाइन (भूमि के उपयोग के अधिकार का अर्जन) प्रधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के प्रधीन भारत सरकार के पेट्रोलियम और रसायन मंत्रालय (पेट्रोलियम विभाग) की प्रधिसूचना का० आ० सं० 2128 तारीख द्वारा 22-7-80 द्वारा केन्द्रीय सरकार ने उस प्रधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पाइप लाइनों को विभाने के प्रयोजन के लिए अर्जित करने का अपना आशय घोषित कर दिया था;

और यतः सक्षम प्राधिकारी के उक्त प्रधिनियम की धारा 6 की उपधारा (1) के प्रधीन सरकार को रिपोर्ट दे दी है;

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् उस प्रधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है;

अब, यतः उक्त प्रधिनियम की धारा 6 की उपधारा (i) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस प्रधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने के बजाय तेल और प्राकृतिक गैस आयोग में, सभी आधारों से मुक्त रूप में, शोषण के प्रकाशन की इस तारीख को निहित होगा।

और आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निवेद देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने के बजाय तेल और प्राकृतिक गैस आयोग में, सभी आधारों से मुक्त रूप में, शोषण के प्रकाशन की इस तारीख को निहित होगा।

सम्बूद्धी

बायर बेड से सी०पी० स्टेशन तक बायर विभाने के लिए।
राज्य-गुजरात जिला-भरुच तालुका-भरुच

गांव	सर्वे नं०	हेक्टेयर	एकार्ट	सेमीयर
कहान	9	0	0	99
	10	0	0	40
	11	0	0	14

[सं० 12016/32/80-प्रो०]

S.O. 3226.—Whereas by a notification of the Government of India in the Ministry of Petroleum, S.O. No. 2128 dated 22-7-80 under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline;

And whereas the Competent Authority has under Sub-section (1) of Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the Government lands specified in the schedule appended to this notification hereby acquired for laying the pipelines;

And further in exercise of power conferred by Sub-section (4) of that Section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil and Natural Gas Commission free from encumbrances.

SCHEDE

R.O.U. for wire bed pipeline to C.P. Station
State : Gujarat District : Bharuch Taluka : Bharuch

Village	Survey No.	Hec-tare	Are	Centiare
Kahan	9	0	0	99
	10	0	0	40
	11	0	0	14

[No. 12016/32/80-Prod.]

S.O. 3227.—केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहिन में यह आवश्यक है कि गुजरात राज्य में कूप नं० एस० ०५००३० से जी० जी०ए० सोभासण II तक पेट्रोलियम के परिवहन से लिये पाइप लाईन तेल तथा प्राकृतिक गैस आयोग द्वारा विभाई जानी चाहिए;

और मत यह प्रतीत होता है कि ऐसी लाईनों को विभाने के प्रयोजन के लिये प्रत्येक अधिकारी में वर्णित भूमि में उपयोग का अधिकार अनियत करना आवश्यक है;

अत अब पेट्रोलियम और खनिज पाइप लाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त अधिकारों का प्रयोग करते हुए केन्द्रीय सरकार ने उनमें उपयोग का अधिकार अधिकृत करने का अपना प्राप्त एतद्वारा घोषित किया है;

वशते कि जहाँ भूमि में हितवड़ कोई व्यक्ति, उस भूमि के दीर्घ पाइप लाईन विभाने के लिए आक्षेप सक्षम अधिकारी, तेल तथा प्राकृतिक गैस आयोग, निर्माण और देवभाल प्रभाग, मकरपुरा गोड, वडोदरा-९ को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विर्तिदिव्यता, यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत हो या किसी विधि व्यवसायी की मार्फत।

सम्बूद्धी

1. एस० ३० शी० से जी० जी० एस II सोभासण तक पाइप लाईन विभाने के लिए

राज्य-गुजरात जिला और तालुका-मेहसाणा

गांव	सर्वे नं०	हेक्टेयर	एकार्ट	सेमीयर
कोचवा	166	0	02	75
	201	0	23	28
	198	0	15	30
	191	0	06	36
	190	0	08	50
	189/1	0	01	00
	189/2	0	13	50
	182	0	13	44
जगुदान	464	0	09	30

[सं० 12016/58/80-प्रो०]

S.O. 3227.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from S.E.D. to GGS II Sobhasan in Gujarat State pipelines should be laid by the Oil and Natural Gas Commission;

And whereas it appears that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipelines under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDE

R.O.U. for well No. SED to GGS II Sobhasan
State : Gujarat District & Taluka : Mehsana

Village	Survey No.	Hec-tare	Are	Centiare
Kochava	166	0	02	75
	201	0	23	28
	198	0	15	30
	191	0	06	36
	190	0	08	50
	189/1	0	01	00
	189/2	0	13	50
	182	0	12	44
Jagudan	464	0	09	30

[No. 12016/58/80-Prod.]

का० आ० 3228—केन्द्रीय सरकार को यह प्रतीत होना है कि लोक-द्वित में यह आवश्यक है कि गुजरात राज्य में कृप न० जालोरा-23 से जी जी एस जालोरा तक पेट्रोलियम के परिवहन के लिये पाइप लाईन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और यह यह प्रतीत होगा है कि ऐसी लाईनों का बिछाने के प्रयोजन के लिये एन्डपावर अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अब अब पेट्रोलियम और खनिज पाइप लाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एन्डपावर घोषित किया है।

बास्ते कि उक्त भूमि में हितवद्ध कोई व्यक्ति, उम भूमि के नीचे पाइप लाईन बिछाने के लिए आशेष मकाम अधिकारी, तेल तथा प्राकृतिक गैस आयोग, नियमित और देखभाल प्रभाग, मकरपुरा रोड, बोदरा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशेष करने वाला हार व्यक्ति बिनिर्दिष्ट, यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी मुनाफ़ाई व्यक्तिगत हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

जालोरा-23 से जी० सी० एम० जालोरा तक पाइप लाईन बिछाने के लिए राज्य—गुजरात जिला—महेश्वर तहसील—कड़ी

गाँव	मर्वे नं०	हेक्टेयर	ए. ग्राम	सेटी-
		ई	यर	
मेदरा	158	0	10	05
	150/1	0	04	00
	124	0	11	30
	149	0	06	15
	148	0	12	45
	135	0	04	50
	146	0	05	50
	145	0	18	00
	144	0	03	00
	76	0	11	40
	77	0	10	50
	78	0	03	75
	80	0	16	50
	193	0	06	00

[सं० 12016/60/80-प्र००]

किरत चड्डा, अवर सचिव

S.O. 3228.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Jhalora-23 to G.G.S. Jhalora in Gujarat State pipelines should be laid by the Oil and Natural Gas Commission;

And whereas it appears that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Use in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of the notification, object to the laying of the pipelines under the land to the Competent

Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

Pipeline from Jhalora-23 to GGS Jhalora
State : Gujarat District : Mehsana Taluka : Kadi

Village	Survey No.	Hec-tare	Acre	Centi-metre
Medra	158	0	10	05
	150/1	0	04	00
	124	0	11	30
	149	0	06	15
	148	0	12	45
	135	0	04	50
	146	0	05	50
	145	0	18	00
	144	0	03	00
	76	0	11	40
	77	0	10	50
	78	0	03	75
	80	0	16	50
	193	0	06	00

[No. 12016/60/80-Prod.]

KIRAN CHADHA, Under Secy.

स्वास्थ्य और परीक्षार कल्पणा मंत्रालय

(स्वास्थ्य विभाग)

राई विल्ली, ४ नवम्बर, 1980

का० आ० 3229—भारतीय आयुर्विज्ञान परिषद् अधिनियम (1956 का 102) की धारा 4 और उप धारा 32 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एन्डपावर भारतीय आयुर्विज्ञान परिषद् नियम, 1957 को संशोधित करने के लिए तिम्नलिखित नियम बनाती है, प्रथात् —

1. (1) इन नियमों का नाम भारतीय आयुर्विज्ञान परिषद् (संशोधन) नियम, 1980 है।

(2) ये सरकारी ग्रामपाल में प्रकाशित होने की तारीख को प्रकृत होंगे।

2. भारतीय आयुर्विज्ञान परिषद् नियम, 1957 में,

(क) नियम 4 के स्थान पर तिम्नलिखित नियम प्रतिस्थापित किया जाएगा, प्रथात् —

4. सीनेट ग्रथा कोट द्वारा निवासित :— विश्वविद्यालय की सीनेट के सदस्य ग्रथा जिस विश्वविद्यालय में सिनेट मही है, न्यायालय के सदस्य विश्वविद्यालय के चिकित्सा संकाय के सदस्यों में से एक का निवासित तिम्नलिखित द्वारा से करेगे, प्रथात् :—

(क) जिस बैठक में चुनाव करने का विचार है उस बैठक की तारीख से कम से कम तीस दिन पहले विश्वविद्यालय का रजिस्ट्रार प्रत्येक सदस्य को चुनाव की तारीख, समय और स्थान के बारे में सूचित करेगा।

(क) भारतीय आयुर्विज्ञान परिषद् के सदस्य का चुनाव करने के लिए इन बैठक में उपस्थित कोई भी सदस्य चिकित्सा संकाय के उपस्थित सदस्यों में से किसी भी सदस्य के नाम का प्रस्ताव कर सकेगा और प्रस्तावक के असाधा या जिसके नाम का प्रस्ताव

- (किया गया है उम्मेदवार किसी अन्य सदस्य को ऐसे प्रस्ताव का अनुमोदन करना होगा परन्तु एक सदस्य को केवल एक नाम का प्रस्ताव या अनुमोदन करने का अधिकार होगा।
- (ग) कोई भी उम्मीदवार वास्तविक चुनाव से पहले अपना नाम बोलिए ले सकता है;
- (घ) यदि केवल एक ही उम्मीदवार का नाम विधिवत् प्रस्तावित हो और अनुमोदित किया गया हो तो विश्वविद्यालय का रजिस्ट्रार तुरन्त ऐसे उम्मीदवार को विधिवत् घोषित कर देगा;
- (इ) यदि विधिवत् प्रस्तावित हो और अनुमोदित उम्मीदवारों की संख्या एक से अधिक होगी तो गुप्त मतदान से चुनाव कराया जाएगा,
- (च) सूचित की गई तारीख को वास्तविक चुनाव के प्रारम्भ होने से पहले विश्वविद्यालय का रजिस्ट्रार मतदान पेटी का निरीक्षण करने के लिए सदस्यों से कहेंगे यदि सदस्य ऐसा करना चाहेंगे तो उसे देख लेंगे और नहरखात् वह उप पेटी को ताजा भाग देंगे;
- (छ) वास्तविक चुनाव की तारीख को बैठक में उपरिवत् सदस्य एक-एक करके उप सूची में अपने नामों के सामने हस्ताक्षर करेंगे जिसमें उन सभी सदस्यों के नाम वर्णक्रम में दिए हुए होंगे और वह सूची मतदान पेटी के पास रखी होगी।
- (ज) इस सूची में हस्ताक्षर करने के बाद सदस्य को एक मतपत्र दिया जाएगा जिसमें सभी उम्मीदवारों के नाम होंगे और विश्वविद्यालय के रजिस्ट्रार के हस्ताक्षर हुए होंगे। वह उस मतपत्र पर अपनी पम्पद के उम्मीदवार के नाम के सामने काटे का निशान (X) लगा लेने के बावजूद उप मतपत्र की मतपेटी में डाल कर देगा;
- जैसे ही सभी उपरिवत् सदस्य तथा वे सदस्य जो मत देने के अधिकार का उपयोग करना आड़ते हैं, अपना मत दे तो विश्वविद्यालय का रजिस्ट्रार उन सभी उम्मीदवारों की उपस्थिति में, जो व्यक्तिगत रूप से उपस्थित हों मत पेटी को छोलेगा तथा उसमें से सभी मतपत्र बाहर निकालेगा और उनकी जाल करेगा और निम्नलिखित बातों के होने पर किसी भी मतपत्र को रद्द कर देगा:—
- (क) यदि किसी मतपत्र पर विश्वविद्यालय के रजिस्ट्रार के हस्ताक्षर नहीं होंगे; अथवा
- (ख) यदि किसी सदस्य के उस मतपत्र पर हस्ताक्षर होंगे या उस ने उप पर कोई शब्द लिखा या चिन्ह लगाया होगा जिससे यह पता चल सके कि यह अमुक व्यक्ति का मतपत्र है, अथवा
- (ग) उप पर किसी को मत नहीं दिया गया होंगा, अथवा
- (घ) डाले गए मत की अनिश्चितता; अथवा
- (इ) यदि मत एक से अधिक उम्मीदवारों को दिया गया होगा;
- (छ) उपके बाद विश्वविद्यालय का रजिस्ट्रार वैध मतों को उन उम्मीदवारों के नामों के अनुमार जिनके नाम पर वे डाले गए हैं, अलग-अलग करेगा और प्रत्येक उम्मीदवार के मतों को अलग-अलग गिन लेगा।
- (ज) गणना के समाप्त हो जाने पर विश्वविद्यालय का रजिस्ट्रार एक बैठक में प्रत्येक उम्मीदवार के हारा प्राप्त किए गए मतों की घोषणा करेगा और अधिकतम वैध भत्ता

देने वाले उम्मीदवार को विधिवत् रूप से धुमा गो प्रारंभी अनुमोदन प्राप्ति का सदस्य घोषित करेगा;

(ज) यदि दो या अधिक उम्मीदवार वरावर जागरूक मत प्राप्त करते हैं और एक समान मत पाने वाले हन दो या अधिक उम्मीदवारों द्वारा प्राप्त मतों की संख्या किसी अन्य उम्मीदवार द्वारा लिए गए मतों की संख्या से अधिक होती है तो उन के बीच पर्वती डाल कर निर्णय किया जाएगा और जिस उम्मीदवार के नाम पर्वती निकलेगी उसे चुना हुआ घोषित किया जाएगा।"

(झ) कार्म चार में पैरा एक के उप पैरा (घ) में तथापि पैरा-2 के उपपैरा (क) में "पंजीकृत डाक में" शब्दों के स्थान पर पैरा "डाक से" शब्द रखें जाएंगे।

[सं० वी० 11025/71/78-एम ई (पी)]
के० बैण्डगोपाल, उप सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE (Department of Health)

New Delhi, the 4th November, 1980

S.O. 3229.—In exercise of the powers conferred by section 4 and section 32 of the Indian Medical Council Act (102 of 1956) the Central Government hereby makes the following rules to amend the Indian Medical Council Rules, 1957, namely :—

1. (1) These rules may be called the Indian Medical Council (Amendment) Rules, 1980.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Indian Medical Council Rules, 1957,
 - (a) for rule 4, the following rule shall be substituted, namely :—
 4. Election by Senate or Court.—The members of the Senate of the University or in case the University has no Senate, the members of the Court shall elect a member from amongst the members of medical faculty of the University in the following manner, namely :—
 - (a) the date, time and place of the election shall be intimated to each of the members by the Registrar of the University at least thirty days before the date of meeting in which the election is proposed to be held;
 - (b) any member present at the meeting shall be entitled to propose a name of any member present from amongst the members of medical faculty, for election as a member of the Medical Council of India and such proposal shall be required to be seconded by a member other than the proposer or the one whose name is proposed.

Provided that the member shall be entitled to propose or second only one name;

 - (c) any candidate may withdraw his candidature before the actual election;
 - (d) if the name of only one candidate is duly proposed and seconded, the Registrar of the University shall forthwith declare such candidate as duly elected;
 - (e) if the number of candidates duly proposed and seconded exceeds one, an election shall be held by secret ballot;
 - (f) before the commencement of the actual election on the date so intimated, the Registrar of the University shall invite the members to inspect the ballot box, in case they may like to do so, and he shall then lock the box;

(g) on the date of actual election, the members present in the meeting shall, one by one, sign against their names in the list which contains the names of all the members in alphabetical order and is placed along the side of the ballot box;

(h) after a member has signed his name in said list, he shall be given a ballot paper containing the names of all the candidates and signature of the Registrar of the University, which he shall drop into the ballot box after affixing thereon a cross (X) mark against the name of the candidate of his choice;

(i) as soon as all the members present and wishing to exercise the right to vote have done so, the Registrar of the University shall, in the presence of the candidates who may be present in person, open the ballot box and take out from it all the ballot papers and examine them and reject as invalid any ballot paper if—

(A) it does not bear the signature of the Registrar of the University; or

(B) the member signs his name or writes any word or makes any mark on it by which it becomes recognisable as his ballot paper; or

(C) no vote is recorded thereon; or

(D) there is uncertainty of the vote exercised; or

(E) the vote has been given in favour of more than one candidate;

(j) the Registrar of the University shall then proceed to arrange the valid votes according to the candidates in whose favour they had been cast and count them separately for each candidate;

(k) after the counting is over, the Registrar of the University shall make an announcement in the meeting about the votes secured by each of the candidate and he shall also declare the candidate securing the largest number of valid votes as duly elected to be a member of the Medical Council of India;

(l) in the event of two or more candidates securing the same number of votes and that number being more than the number of votes secured by any candidate other than the two or more securing the same number of votes, the determination as between such candidates shall be by draw of lots and the candidates on whom the lot falls, shall be declared elected";

(m) In Form IV in sub-paragraph (d) of paragraph 1 and in sub-paragraph (a) of paragraph 2 for the words "by registered post", the words "by post", shall be substituted.

[No. V. 11025/71/78-ME(P)]

K. VENUGOPAL, Under Secy.

निर्माण और आवास मंत्रालय

नई दिल्ली, 31 अक्टूबर, 1980

का. ० आ० ३२३०—नगर भूमि (प्रधिकार सीमा और विनियमन) प्रधिनियम, 1976 (1976 का 33) की धारा २ के खंड (घ) के उपबन्धों के साथ पठित खण्ड (ट) के अनुसरण में, केन्द्रीय सरकार, निर्माण और आवास मन्त्रालय, भारत सरकार के दिनांक 17 फरवरी, 1976 के प्र० आ० स० 119(क) की प्रविष्टिता में एन्ड्राइरा प्रागे और निम्नलिखित संशोधन करती है, नामतः—

(i) उक्त प्रधिनियम में मंत्रालय अनुसूची में, कम संख्या 1 और उससे संबंधित प्रविष्टियों के लिए निम्नलिखित कम संख्या और उससे

संबंधित प्रविष्टियां प्रतिस्थापित की जायें; नामतः

1	2	3
"1. सेना सम्पदा प्रधिकारी (नगर भूमि प्रधिकार सीमा) सीमा)	(क) मिक्स्डरावाद आवासी की स्थानीय सीमाओं के भीतर सम्मुख क्षेत्र सीमा) (ख) बैलगांव आवासी की मिक्स्डरावाद स्थानीय सीमा के भीतर सम्मुख क्षेत्र	प्रधाय III और प्रधाय IV की आवासी 26 और 27"
		(ii) कम संख्या 5 और उससे संबंधित प्रविष्टियां हटा ली जाएँ।

[फाइल सं० 4/15/80-यू-सी-यू०]
वी० आर० अच्युत, उप सचिव

MINISTRY OF WORKS AND HOUSING

New Delhi, the 31st October, 1980

S.O. 3230.—In pursuance of the provisions contained in clause (d) of section 2 of the Urban Land (Ceiling and Regulation) Act, 1976 (33 of 1976) read with clause (k) therof the Central Government hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Works and Housing No. S.O. 119(E), dated the 17th February, 1976, namely :—

(i) in the Schedule annexed to the said notification for serial number 1 and entries relating thereto, the following serial number and entries relating thereto shall be substituted, namely :—

1	2	3
"1. Military Estate Officer (Urban Land Ceiling), Secunderabad.	(a) Entire area with- in the local li- mits of the Can- tonment of Secunderabad.	Chapter III and sections 26 and 27 of Chapter IV" Secunderabad.
	(b) Entire area with- in the local li- mit of the Can- tonment of Bel- gaum.	

(ii) serial No. 5 and entries relating thereto shall be omitted.

[F.No. 4/15/80-UCU]
V.R. IYER, Dy. Secy.

भ्रम मंत्रालय

नई दिल्ली, 1 नवम्बर, 1980

का० आ० ३२३१—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर॒ डायमड सिरमिका, 26, बीरपाड़ा गांव, कलकत्ता-30, नामक स्थापन से सम्बद्ध नियोजक प्रो और कर्मचारियों की बढ़ुसंख्या इस आवास पर सहमत हो गई है कि कर्मचारी भविष्य प्रधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए;

अतः, अब, उक्त प्रधिनियम की धारा 1 की उपधारा (4) धारा प्रधिनियम का प्रयोग करते हुए, केन्द्रीय सरकार, उक्त प्रधिनियम के उपबंध उक्त स्थापन को लागू करती है।

यह प्रधिनियम 31 दिसंबर, 1979 को प्रवृत्त हुई समझी जाएगी।

[सं० एस-35017/1 3/80-पी० एफ०]

MINISTRY OF LABOUR

New Delhi, the 1st November, 1980

S.O. 3231.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Diamond Ceramics, 26, Birpara Lane, Calcutta-30, have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the thirty first day of March, 1979.

[No. S. 35017(13)/80-PF. II]

का० आ० 3232.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स सप्लायर थी. एस. बी. रोड, बम्बई-59, जिसके अन्तर्गत बी-129, घाटकोपर इण्डस्ट्रियल इस्टेट, एल० बी० शास्त्री मार्ग, घाटकोपर, बम्बई-86, नामक स्थापन से सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए;

अतः, अब, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

यह अधिसूचना 28 फरवरी, 1979 को प्रवृत्त हुई समझी जाएगी।

[सं. एस-35017/14/80-पी० एफ०-२]

S.O. 3232.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Supplier Tea Company, 16, Rabindra Sarani, Calcutta-1 including its branch at 91, Netaji Subhas Road, Calcutta-1, have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the twenty-eighth day of February, 1979.

[No. S. 35017(14)/80-PF. II]

का० आ० 3233.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स सुप्रीम ट्रॉल्स, बी-4, हिन्द सौराष्ट्र इण्डस्ट्रियल इस्टेट, मार्डेरी कुली रोड, मारोल नाका, बम्बई-59, नामक स्थापन में सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए।

अतः, अब, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

यह अधिसूचना 1 अगस्त, 1979 को प्रवृत्त हुई समझी जाएगी।

[सं. एस-35018/45/80-पी० एफ०-२]

S.O. 3233.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Supreme Tools, B/4, Hind Saurashtra Industrial Estate, Andheri Kural Road, Marol Naka, Bombay-59, have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the first day of August, 1979.

[No. S. 35018(45)/80-PF. II]

का० आ० 3234.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स शायस, 116-19, संजय मित्तल बिल्डिंग मं० 3, एम० बी० रोड, बम्बई-59, जिसके अन्तर्गत बी-129, घाटकोपर इण्डस्ट्रियल इस्टेट, एल० बी० शास्त्री मार्ग, घाटकोपर, बम्बई-86, नामक स्थापन से सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए,

अतः, अब, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

यह अधिसूचना 1 अगस्त, 1979 को प्रवृत्त हुई समझी जाएगी।

[सं. एस-35018/46/80-पी० एफ०-२]

S.O. 3234.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Bios, 116-19, Sanjay Mittal Building No. 3, M. V. Road, Bombay-59, including its branch at B-129, Chatkopar Industrial Estate, L.B. Shashtri Marg, Ghatkopar, Bombay-86, have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the first day of August, 1979.

[No. S. 35018(46)/80-PF. II]

का० आ० 3235.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स ए० बी० सिस्टम कंट्रोल्स, माहिम इण्डस्ट्रियल इस्टेट, 571, भोरी रोड बम्बई-16, नामक स्थापन से सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए,

अतः, अब, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

यह अधिसूचना 1 नवम्बर, 1979 को प्रवृत्त हुई समझी जाएगी।

[सं. एस-35018/47/80-पी० एफ०-२]

S.O. 3235.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs A. G. System Controls, Mahim Industrial Estate, 571, Mori Road, Bombay-16 have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the first day of November, 1978.

[No. S. 35018(47)/80-PF. II]

का० आ० 3236.—केम्ब्रिय सरकार को यह प्रतीत होता है कि मैसर्स केम्ब्रियनियरिंग वर्क्स, प्लॉट सं० ए-२४४, रोड बी, वागले इण्डस्ट्रियल इस्टेट, थाने-४, जिसके अन्तर्गत एफ-१, गार्डन कॉलनी, एल० जी०, X रोड न० २, माहिम, मुम्बई-१६, मिथ्य उसकी शाश्वा भी है, नामक स्थापन से सम्बद्ध नियोजक प्रीर कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए।

अतः, अब, उक्त अधिनियम की धारा १ की उपधारा (४) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केम्ब्रिय सरकार, उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

यह अधिसूचना १ मई, 1979 को प्रवृत्त हुई समझी जाएगी।

[सं० एस-३५०१८/४८/८०-पी० एफ०-२]

S.O. 3236.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Kemo Engineering Works, Plot No. A-244, Road B, Wagale Industrial Estate, Thane-4, including its branch at F-1, Garden Colony, L.J.X. Road No. 2, Mahim, Bombay-16, have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the first day of May, 1979.

[No. S. 35018(48)/80-PF. II]

का० आ० 3237.—केम्ब्रिय सरकार को यह प्रतीत होता है कि मैसर्स होटल वृशाली डी-लक्ष्म, ३९ए/२, ताराबाई पार्क, कोल्हापुर-३, नामक स्थापन से सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर महमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए।

अतः, अब, उक्त अधिनियम की धारा १ की उपधारा (४) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केम्ब्रिय सरकार, उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

यह अधिसूचना १ नवम्बर, 1979 को प्रवृत्त हुई समझी जाएगी।

[सं० एस-३५०१८/५०/८०-पी० एफ०-२]

S.O. 3237.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Hotel Virashali De-Luxe, 39A/2, Tarabai Park, Kolhapur-3, have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the first day of November, 1979.

[No. S. 35018(50)/80-PF. II]

का० आ० 3238.—केम्ब्रिय सरकार को यह प्रतीत होता है कि मैसर्स बोकिय टैनरीज लिमिटेड, सं० २०, ईस्ट एवेन्यू, केताबपेशमलपुरम, आफ ग्रीनडेज रोड, मद्रास-२८ जिसके अन्तर्गत पुडुक्कोट्टी, डिक्कोट्टी (बया) केलम-बक्कम, चिङ्गलंपेट जिला, मिथ्य त उसका कारब्बाना और १६०, गोल्क लिक्कन, नई दिल्ली-३, स्थित उसका रजिस्ट्रीकॉन कार्यालय भी है, नामक स्थापन से गम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर महमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए।

अतः, अब, उक्त अधिनियम की धारा १ की उपधारा (४) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केम्ब्रिय सरकार, उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

यह अधिसूचना १ मई, 1979 को प्रवृत्त हुई समझी जाएगी।

[सं० एस-३५०१९/५७/८०-पी० एफ०-२]

ए० पूनन, उप सचिव

S.O. 3238.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Bakiyu Tanneries Limited, No. 20 East Avenue, Kesavaperumalpuram, Off Greeways Road, Madras-28 including its factory at Padupakkam, Post Office (Via) Kalambakkam, Chingleput District and its Registered Office at 160, Golf Link, New Delhi-3, have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the first day of May, 1979.

[No. S. 35019(57)/80-PF. II]
A. POONEN, Dy. Secy.

New Delhi, the 5th November, 1980

S.O. 3239.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, New Delhi, in the industrial dispute between the employers in relation to the management of Beas Dam Project, Talwara and their workmen, which was received by the Central Government on 29-10-1980.

BEFORE SHRI MAHESH CHANDRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NEW DELHI

I.D. No. 23 of 1978

In re :

Shri Uttam Singh, Turner,
c/o Indian National Building and Construction Workers'
Federation, 914-L, T-3, Sector 1,
Talwara, ...Petitioner

Versus

The Superintending Engineer (Admn. & Accounts),
Beas Dam Project,
Talwara, ..Respondent

AWARD

By this award I propose to dispose of three Industrial Disputes referred by the appropriate Government which were registered as I. D. No. 23/78, Uttam Singh Versus Supdt. Engineer, Beas Dam Project, Talwara, I.D. No. 24 of 1978 Harbans Lal Versus Beas Dam Project, Talwara and I.D. No. 25 of 1978 Puran Chand versus Beas Dam Project, Talwara. In so far as identical question of law and fact was involved in all these references it was ordered by my order dated the 4th November, 1978 that 'similar question of law and fact are involved and I.D. No. 24 of 1978 and I.D. No. 25 of 1978 as well. One enquiry was held in all these three cases. It would be proper to consolidate the proceeding of I.D. No. 24 and 25 of 1978 with this petition I.D. No. 23/1978 so that parties expense and time is saved. It would save the time of the Tribunal as well. It is ordered accordingly. Proceedings would be held in I.D. No. 23/1978 while others I.D. No. 24-25/1978 would be put up herewith.' The award also proceeds in I.D. No. 23/78 and attested copy of the award shall be placed on each of the other files of I.D. No. 24/78 and I.D. No. 25/78.

2. I.D. No. 23/78 Uttam Singh Versus Supdt. Engineer, Beas Dam Project, Talwara was referred by the Central Government as appropriate Government u/s 10 of the I.D. Act, 1947 to this tribunal vide its order No. L-42012(26)/76-D.II(B) dated the 23rd February, 1978 in the following terms :

'Whether the action of the management of the Beas Dam Project, Talwara in terminating the service of Shri Uttam Singh, Turner, Token No. 1086-L with effect from 13-6-1974 is justified ? If not, to what relief is the said workman entitled ?'

3. I.D. No. 24/78 Harbans Lal versus Supdt. Engineer, Beas Dam Project, Talwara was referred by the Central Government as appropriate Government u/s 10 of the I.D. Act, 1947 to this Tribunal vide its order No. L-42012(25)/76-D.II(B) 23rd February, 1978 in the following terms :

'Whether the action of the management of the Beas Dam Project, Talwara in terminating the services of Shri Harbans Lal, Turner, Token No. 497-A with effect from 13-6-1974 is justified ? If not, to what relief is the said workman entitled ?'

4. I.D. No. 25/78 Puran Chand Versus Beas Dam Project, Talwara was referred by the Central Government as appropriate Government u/s 10 of the I. D. Act, 1947 to this Tribunal vide its order No. L-42012(20)/76-D.II(B) dated the 23rd February, 1978 in the following terms :

'Whether the action of the management of the Beas Dam Project, Talwara in terminating the services of Shri Puran Chand, Chargeeman (Misc) Token No. 112-Q with effect from 17-6-1974 is justified ? If not, to what relief is the said workman entitled ?'

5. On receipt of these orders of references the same were ordered to be registered and notices were issued for appearance to the parties concerned, in pursuance whereof statement of claims were filed in all the three Industrial Disputes whereafter written statements were filed on behalf of the Management and finally replications were filed. It was thereafter that the order dated the 4th November, 1978 consolidating the proceedings in all these references was passed and in consequence following issues were framed for trial vide my order dated the 6th January, 1979 in the following terms :

1. Whether the matter referred is not an Industrial Dispute ?
2. As in respective orders of reference.
3. Relief.

6. I have gone through the evidence produced by the Parties and have heard their representatives at length and after giving my considered thought to the matter before me I have come to the following findings upon these issues :

Issue No. 1 :

7. From the perusal of written statement filed by the Management in these three references I find that the Management has stated in para No. 1 of the preliminary objections in respective written statements that 'no valid Industrial Dispute exists in this case which could form the subject of any adjudication proceedings.' The Id. representative of the Management has not been above to elucidate as to what was implied by this objection. It is not denied on behalf of the Management that the services of the three workmen involved in these disputes were terminated. It is also not denied that they had raised a demand in consequence whereof the present references were made. It is not alleged that the references has not been made by the appropriate Government. It is also not alleged that the matter referred were not Industrial Disputes within the meaning of the term defined in the I.D. Act. That being the position I have not been able to agree with the contention of the Management that no valid Industrial Disputes exists in these cases which could from the subject of the adjudication proceedings and as such this issue No. 1 is decided in favour of the workmen and against the Management.

Issue No. 2 :

8. This issue relates to the justification of termination of services of S/Shri Uttam Singh, Harbans Lal and Puran Chand, workmen. According to the very case of the workmen as disclosed from their respective statement of claims they were placed under summary suspension vide letter dated the 26th April, 1973 and in pursuance thereof

enquiry was held by one Shri M. L. Arora and in pursuance of the said enquiry a report was submitted and thereafter a formal charge sheet was issued to the three workmen and Shri D. P. Sehgal, SDO (Administration) Concrete Production Adviser was appointed Enquiry Officer to conduct a joint enquiry against all these three workmen who conducted the enquiry and made his recommendations findings the workmen guilty of the charges levelled against them and it was in pursuance thereof that the punishing authority awarded the punishment of termination of services and even the appeals against the said orders were dismissed. These facts are by and large admitted on behalf of the Management while the workmen have alleged that the enquiry was vitiated. It is urged on behalf of the Management that the enquiry had been held in accordance with the principles of natural justice and was not open to attack. Thus the first question to be considered in these references by this Tribunal is as to whether the enquiry is vitiated.

8. In order to prove the enquiry the Management has examined two witnesses. M.W. 1, Shri M. L. Arora, Officer Incharge and M.W. 2 Shri D. P. Sehgal, SDO. Shri M.L. Arora is the person who had held preliminary enquiry against these workmen and had made his recommendation and Shri D. P. Sehgal M.W. 2 is the Officer who had conducted the final enquiry which has resulted in the termination of the services of these workmen.

9. M.W. 1, Shri M. L. Arora has stated that he had held the preliminary enquiry against these workmen in pursuance of orders of Suptdg. Engineer conveyed vide Ex. M.W. 1/1 and he had submitted his report Ex. M.W. 1/2. He has proved to be under his signatures and correct and he has further stated that the enquiry was conducted by him after due notice to the workmen. It is not denied by the workmen that Ex. M.W. 1/1 was in fact issued and that report Ex. M.W. 1/2 was in fact submitted. It is also not denied that the enquiry was held. Rather the cross examination against this witness is directed as to whether the enquiry conducted by Shri Arora was a preliminary one. In reply to the cross examination Shri M. L. Arora has stated that he did not mention that Ex. M.W. 1/2 was a preliminary report. Even otherwise so far as Shri M. L. Arora was concerned his report Ex. M.W. 1/2 was not a preliminary report. Rather it was a report of a preliminary enquiry. It is categorically stated by Shri M. L. Arora that he took it that letter Ex. M.W. 1/1 meant a preliminary enquiry to be conducted. It is further clarified by him that 'Since I was called upon to probe into the case, I did not get any other documents except Ex. M.W. 1/1 and I did not frame any formal charges as I was going into these matters by way of a preliminary enquiry to find out if there was any case for a detailed enquiry. I have perused the order Ex. M.W. 1/1 as also the report Ex. M.W. 1/2. Certainly they do appear to be in the nature of a preliminary enquiry to suggest that Ex. M.W. 1/1 was intended to find out if there was a case for a detailed enquiry and Ex. M.W. 1/2 did show that there was certainly such a case.'

10. M.W. 2, Shri D. P. Sehgal is the Enquiry Officer who had conducted the detailed enquiry which resulted in the termination of the services of these workmen. He was appointed the Enquiry Officer against these three persons vide order Ex. M.W. 2/1. Charges sheets were issued to the workmen. Notice of the enquiry were issued to the workmen. The said notices are Ex. M.W. 2/2. It is stated by Shri Sehgal that the workmen participated in the enquiry and Shri D. S. Chauhan, O. P. Kalia and others were representing the workmen before him. Said Shri D. S. Chauhan is the same person which is representing these workmen before this Tribunal in these three matters. Shri Sehgal has proved his report as Ex. M.W. 2/3 and its covering letter as Ex. M.W. 2/3-A. Actual report Ex. M.W. 2/3-B is stated by Shri Sehgal to be correct and bearing his signatures. He has also proved Ex. M.W. 2/3-C, the list containing various dates of enquiry and names of representatives of the workmen and witnesses etc. One very important fact stated and proved by Shri Sehgal is that 'the proceedings bear the signatures of respective workmen and their representatives on respective dates.' It is also stated that full opportunity was granted to the workmen including that of cross examination and production of witnesses.

11. Nothing has been brought out in the cross examination of M.W. 2, Shri D. P. Sehgal, the Enquiry Officer that what was stated by him in his examination in chief was not correct. It is specifically denied by Mr. Sehgal that he had

not permitted Harbans Lal to make his complete statement. Regarding the reference to the previous conduct of these workmen it is stated by him that 'whatever reference I have made in my enquiry report para 4 of the alleged previous conduct of these workmen has been gathered by me out of the statement recorded by me.' A perusal of the testimony of Shri D. P. Sehgal goes to show that the enquiry was conducted in all fairness and without any bias in favour of the Management or against the workmen. I have perused the enquiry proceedings and I find that they do not suffer from any lacunas. The enquiry proceedings and the statements of witnesses and the workmen go to show that full opportunity was afforded to the workmen to be represented before the Enquiry Officer and to cross examine the witnesses of the Management and present the evidence of the workmen. There is nothing to suggest that the Enquiry Officer had mis-conducted himself for the enquiry. Similarly there is absolutely nothing even to remotely suggest the Enquiry Officer had acted malafide and had denied any opportunity. There is nothing on record brought to suggest that there was any mis-carriage of justice in consequence of the conduct of the Enquiry Officer in holding of the enquiry. It is Shri D. S. Chauhan, present representative of the workmen who has always been signing the enquiry proceedings together with the workmen in token of correctness of these proceedings and it would not be open to him to now come forward and say that these proceedings were not correct record of the proceedings. It may be mentioned here that order of termination is dated 13th June, 1974 and appeals were preferred by the workmen to the Suptd. Engineer which were dismissed on 28-9-1974 and thereafter a further appeal or revision was preferred to the General Manager which also dismissed. There is nothing to suggest that these appeals were not properly considered by the appellate authority. The workmen have come forward themselves as W.W. 1, Shri Uttam Singh, W.W. 2; Shri Harbans Lal and W.W. 3 Shri Puran Chand. They had during their cross examination admitted that the union representatives had been appearing with them on each of the hearings of the enquiry proceedings and that no application or objection was ever submitted or on account of conduct and manner of enquiry by Mr. Sehgal. A bald statement at this stage that full opportunity was not afforded for producing oral evidence or for cross examining the witnesses of the Management cannot carry weight at this stage particularly keeping in view the detailed enquiry proceedings and the detailed statement of witnesses examined by the Enquiry Officer together with the fact that these were signed by the workmen and their representatives in token thereof. There is nothing in the affidavits of these workmen which goes to justify their allegations or in any manner prove that the enquiry was vitiated.

12. It may be mentioned here that a perusal of the enquiry proceedings and the evidence led before the Enquiry Officer goes to show that the conclusions arrived at by the Enquiry Officer are born out of the evidence on record. The conclusions are not palpably wrong either. It also cannot be said that the conclusions and findings of enquiry officer are such that no reasonable man would arrive at keeping in view the evidence led before the Enquiry Officer. From whichever angle I may consider the matter before me I do not find anything to suggest that the enquiry is vitiated. The enquiry has been conducted with due observance of principles of natural justice relating to domestic enquiries led down from time to time.

13. It has been urged before me that the enquiry conducted by M.W. 1 was infact real enquiry and the enquiry conducted by Shri D. P. Sehgal was intended to filling the lacunae in the enquiry conducted earlier. Even assuming that the earlier enquiry was intended to be a detailed enquiry even then holding of subsequent enquiry is not vitiated or bad. At worst it can be said that the finding with the enquiry conducted by Shri M. L. Aroia and his findings did not satisfy the requirements of law. A fresh enquiry was ordered and an Enquiry Officer, Shri D. P. Sehgal was appointed for the purpose and ultimate orders were passed. There is nothing bad in this either. I have perused the standing orders, copy whereof has been placed on record by the Management and from the perusal of the standing orders also I do not find that the procedure adopted by the Enquiry Officer, Shri D. P. Sehgal was in contravention of the standing orders. On consideration of these facts I have come to the conclusion that the enquiry is not vitiated in the case of any of these workmen. That being the position it would follow that the order of termination of services of these workmen as a conclusion of the enquiry held by Shri D. P. Sehgal is a valid order. Keeping

in view the findings of the Enquiry Officer and the order of punishment I do not think that the punishment is incomparable with the guilt of the workmen.

14. For my discussions and findings above, issue no. 2 is decided in favour of the Management and against the workman and it is awarded that the action of the Management of Beas Deam Project, Talwara in terminating the services of S/Shri Uttam Singh, Harbans Lal and Puran Chand w.e.f. 13-6-74 is justified and that the workmen are not entitled to any relief in these references.

Issue No. 3 :

15. For my findings upon issue No. 2, it is awarded that the action of the Management of Beas Deam Project, Talwara in terminating the services of S/Shri Uttam Singh, Harbans Lal and Puran Chand w.e.f. 13-6-74 is justified and that the workmen are not entitled to any relief what-so-ever and the parties are left to bear their own costs in the peculiar circumstances of the case.

Further Ordered :

That requisite number of copies of this award may be sent to the appropriate Government for necessary action at their end.

MAHESH CHANDRA, Presiding Officer.

Dated : the 28th August, 1980.

[No. L-42012(26)/76-D.II(B)]
S. S. BHALLA, Desk Officer.

New Delhi, the 5th November, 1980

S.O. 3240.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Arbitrator in the industrial dispute between the employers in relation to the management of Dishergarh Area of Eastern Coalfields Limited, Borachek House, Post Office Sitarampur, District Burdwan and their workmen, which was received by the Central Government on the 28th October, 1980.

BEFORE SHRI V. P. GUPTA, DEPUTY CHIEF LABOUR COMMISSIONER (CENTRAL) & ARBITRATOR

In the matter of Arbitration Proceedings under Section 10-A of the Industrial Disputes Act regarding industrial dispute.

BETWEEN

The Management of Dishergarh Area of Eastern Coalfields Ltd.

AND

Their workmen represented by General Secretary, Colliery Mazdoor Congress (HMS) on fixing the wages of underground loaders of Sodepur Colliery at the lowest stage of the time scale w.e.f. 20-2-76.

APPEARANCES :

Representing the workmen :—Shri D. L. Sengupta, Senior Advocate assisted by S/Shri Sujoy Bhattacharya and G. Dasgupta Advocates and Shri Jayanta Poddar General Secretary and Shri N. N. Sinha Vice President of Colliery Mazdoor Congress.

Representing the employers:—Shri M. N. Kar, Advocate, Fox & Mondal Solicitors & Advocates, Calcutta.

The General Manager, Dishergarh area of Eastern Coalfields Ltd., Borachek House P.O. Sitarampur, Dist. Burdwan (West Bengal) representing the management and Shri Jayant Poddar, General Secretary, Colliery Mazdoor Congress (HMS), Bengal Hotel, 2 Md. Hussain Street, Asansol signed an agreement on 11-7-79 to refer the following dispute for my arbitration under Section 10-A of the I.D. Act :—

"Whether the action of the management of Sodepur Colliery of Dishergarh Area of Eastern Coalfields Ltd., in fixing the wages of underground loaders

(list as in Annexure 'A') employed as time-rated workmen, at the lowest (starting) stage of the time rated, scales w.e.f. 20-2-76, is legal and justified? If not, to what relief the workmen are entitled and from what date?"

The agreement stipulated that the Arbitrator shall make his award within a period of 120 days from the date of publication of the agreement in the Official Gazette. The Government of India vide their order No. L-19012(8)/79-D. JV(B) dated 12-10-79 published the said arbitration agreement. The Annexure A, referred to in the terms of reference was however, not, published. The Annexure A was published by the Government vide their order dated 6-2-80.

2. The agreement (in its entirety) was thus published on 6-2-80 and I could give my award by 6-6-80, subject of course to further time allowed by the parties. I called for the statement of claim and counter statement thereon from either party vide my letter dated 23-10-79. The statement of claim of the Colliery Mazdoor Congress (hereinafter referred to as Congress) was received on 9-11-79 and that of the management on 3-12-79. Counter comments were received from the management vide their letter dated 12/14-11-79 and from the Congress vide their submission dated 16-12-79.

3. I fixed a hearing of the parties on 12-2-80 in the office of the Regional Labour Commissioner (C), Dhanbad. On the said date both the parties appeared and extended the time limit for giving the award by 30-4-80. Subsequently, the period was extended by the parties by 6 months viz. upto 30-10-80.

4. In the written statement and during the personal hearing the Congress brought out that the management of Sodepur Colliery was taken over by Government of India w.e.f. 31-1-73 and the colliery was eventually nationalised in May, 1973; the underground loaders of 9 and 10 pits of the colliery were transferred to different collieries on 16-6-73, as the working faces of the colliery had, in the meanwhile been flooded with water; some time in June, 74 the dewatering of the mine having been completed, 260 underground loaders concerned in the instant case were transferred to this colliery from other collieries, including some of those who had been transferred after 16-6-73, as aforesaid, from this colliery itself and they were given time rated jobs. All these underground loaders who were regular and permanent hands in the employment of the company, though given time-rated jobs were allowed the full back wage of the group of underground loaders at the rate of Rs. 13 per day with consequent D.A., V.D.A., Underground Allowance, Provident Fund and other benefits. This rate of payment continued from June 74 to 19-2-76 but from 20-2-76, on the plea of so called categorisation, different designations were assigned to these 260 underground loaders and they were placed in different categories under the National Coal Wage Agreement and their rate fixed at the minimum of the scale of the category, other benefits like, D.A., V.D.A., Underground Allowance etc. besides. The case of the Congress is that the underground loaders fall under category V-A with basic pay of Rs. 13 and by the above categorisation, the management reduced the basic pay of these loaders. According to the Congress they should have been fitted in category V or technical grade G with basic pay at Rs. 345 p.m. They cited settlement dated 28-12-78 (Annexure F of the statement of claim of the Congress) in support. The Congress made various representations to the management and thereafter referred the matter to ALC(C), Asansol vide their letter dated 21-7-78. The workers, being agitated, took recourse of 5 days' strike from 27th October to 31st October 78 when ultimately a settlement came about before Assistant Labour Commissioner (C), Asansol on 1-11-78 whereby the management gave an assurance to resolve the dispute amicably. The management still did nothing to settle the matter and ultimately an Arbitration Agreement was reached on 11-7-79. In a nut shell, according to the Congress the company had no excuse, far less any justification, to deny the said 260 underground loaders the wage of category V-A, which was being paid to them for the period June, 74 to 19-2-76 and earlier. According to the Congress some of the said 260 illiterate workmen are purported to have signed some document with the management accepting in writing their conversion from piece-rate to time-rate category. According to them, the workmen had no knowledge of English, even the so called acceptance, if admitted, was

in respect of conversion and not reduction in wage and the reduction in wage, even if agreed to by the workmen, was void in view of Section 9A of the I.D. Act and Section 23 of the Payment of Wages Act.

5. The management's case, in brief, on the other hand, is that in the year 1973 Sodepur Colliery was inundated as a result of which workers engaged in that colliery became surplus and were accommodated temporarily in the neighbouring collieries by transferring them there, in order to avoid retrenchment, which action on the part of the management would have been harsh for the workers. According to them, till the end of 1974, the management could dewater the mine and mining operations were resumed partially. All those who had been transferred from Sodepur Colliery did not like to come back as, by that time they had got settled in their new places of work. On the other hand, the management was having surplus workers in Bejdih and Patmohana and some other Collieries and most of these surplus workers were in piece-rated group. The management had two alternatives before them; either to retrench them under Section 23-F of the I.D. Act or to rehabilitate them elsewhere if they opted for the same. The management did the latter to avoid hardship to the workers. It was also contended by the management that all the unions operating in the concerned collieries, Colliery Mazdoor Union (INTUC), West Bengal Koyal Mazdoor Sangh (UTUC) had requested the management that instead of retrenching the workmen they should absorb them as time-rated workers in such categories as the individuals would fit into on the starting basic of the category. The management claims to have issued option "to each of the concerned workmen since the process would amount to change of service condition" and each of the concerned workman exercised his option in writing agreeing to work as time-rated workman. The management also contested the claim of the Congress to represent the majority of the concerned workmen who had been transferred from Patmohana or Bejdih Colliery and owed allegiance to INTUC Union. According to the management, "there was no question of any violation of Section 9A of the I.D. Act the change having been effected with the consent in writing of the concerned workmen".

6. During the hearing the Congress produced 3 witnesses Shri S. R. Mitra Senior overman and Branch Secretary Sodenur Colliery Branch Union. Shri Raebubir Harijan and Shri Rahim Mir. The management produced 5 witnesses; Shri Marus Tudu, Shri D. Bhattacharya General Clerk, Shri Seroi Basak, Welfare Officer, Poidih Colliery, Shri S. L. Sood, Agent, Benali Colliery and Shri Mohd. Hussain.

7. The specific issue for determination by me is whether (i) the management was justified in employing underground loaders on time-rated jobs and awarding them a time-rate and (ii) whether the fixation of rate of wages done by the management in the manner they did was legal and proper.

8. In so far as the issue (i) is concerned, it is an admitted fact that the colliery was flooded with water and its workmen were transferred to a number of collieries and on restarting of the colliery, 86 workmen, earlier transferred from this very colliery, were brought back. The remaining workmen were those who had been working in other collieries including Bejdih and Patmohana. The management has tried to prove that in the said collieries they had become surplus to requirement. A number of documents were produced by the management and at one stage the management even made an application to the Arbitrator to issue summons to the Director General of Mines Safety to depute a responsible official for production of raising records of the collieries before the Arbitrator. This application of the management was not granted as the arbitrator has not been vested with the power to issue summons. The management representatives sought to prove, that the complement of the loaders in the said collieries was much too high and hence they were dispersed to Sodenur Colliery. Since the alleged surplusage of these workmen in those collieries is not contested by the Congress, I see no reason why I should not take this contention as a fact. The crucial issue however is whether the management was justified in transferring these underground loaders to any other colliery and in any other job without their consent. The normal stipulation of the Industrial Disputes Act is that in the event of surplusage, retrenchment shall take place. Alternative employment has been visualised under the Act only in the case of lay-off. However, I do not doubt the benevolent attitude of the management and take it that they transferred these underground loaders of Sodepur Colliery

out of their generosity. These workers continued to work in Sodepur Colliery on different jobs (time-rated) till 19-2-76 when the management fitted them into particular categories, and allowed them the minimum of the scale. The management's counsel, through the deposition of Shri Sood, Agent, Benai Colliery, sought to prove that it would not have been possible to categorise the workmen during the period of salvaging operations which continued till 19-2-76 and it was only after such salvaging operations were over that the workmen could be categorised (on a suitable job) and it was because of this that from that day onwards they were allowed the wages of the job performed by them henceforth.

9. To my mind, it is irrelevant whether the workers could be categorised or not during the period of salvaging operations. They were paid the fall back wage of category V-A of Rs. 13 and the union has not made an issue out of it. The difference of opinion between both is that while according to the management, the payment of Rs. 13 per day made by them to the workers from June, 74 to 19-2-76 was more than what was due to them (on the basis of the work performed) according to the union Rs. 13 per day was their rightful due since they belonged to category V-A as underground loaders and the fall back wage of category V-A is Rs. 13 no matter what work is taken from them by the management. I am inclined to agree with the union. The management cannot, at will, change rates of wages. They had transferred these workmen from other collieries to Sodepur Colliery without their consent and it has therefore to be a transfer without any change in the terms and conditions of service. In other words, in Sodepur Colliery too they were to be paid the wages of underground loaders irrespective of the work done by them. With this background, their reduction in wage from 20-2-76 is questionable. The management's counsel has argued that it was not a case of reduction in wage rather it was a case of paying the wage which was actually due to a workman for the job performed by him. If this claim of the management is accepted it will mean that the management was justified in changing their nature of work without any notice etc. Obviously, the management has no such right. The management's counsel also argued that Section 9A is applicable only in cases where there is a unilateral change and only one part of the contract is changed, for example, reduction in wages when the job remains the same. According to him since in the instant case the job is also changed there was no question of application of Section 9A. I am afraid I do not agree with him. I cannot read the word 'unilateral' in the Act when it is not there. The management itself has in their written statement conceded that this would have meant a change in the conditions of service of the workmen hence they took their options. According to them of course Section 9A is not hit because the change was effected with the consent of the concerned workmen. I do not agree with this contention either since the extent of application of Section 9A is distinctly mentioned in the Act and its application is precluded only in cases where either the workmen are governed by Fundamental Rules, Supplementary Rules, Railway Service Code etc. or the change has come about as a result of a settlement or award. The so-called acceptance letter purported to have been signed by the workmen does not fulfil requirement of a settlement as defined in the I.D. Act and as such Section 9A is hit. I am also impressed by the argument of the counsel of the Congress that the so-called acceptance letter was much too vague and non-mention of the category in which a particular workman will be fitted was fatal to the concept of meeting of minds for a contract. Though I find it difficult to be with him when he contends that the workers agreed if at all, to conversion to time rates and not to pay of a particular category I find what has been accepted is the "Initial Starting wage of the category in which these workmen will be fitted". Conversion from piece rated to time rate is only a predicate. However since this acceptance letter is trenching on Section 9A of Industrial Dispute Act I hold that the reduction in wages of underground loaders from 20-2-76 was illegal and unjustified.

10. As regards the relief, I find that the union raised the issue with the management, as far as it could be proved, only on 24-6-78. I do not think it was reasonable for the union to have waited for that long if they were really agitated about the issue. I am of the view that the ends of justice will be met if the workmen concerned are paid the following amount for all their claim in this dispute till 30-10-80—

Workmen placed in category I : Rs. 1500

Workmen placed in category II : Rs. 1300

922 GI/80-4

Workmen placed in category III : Rs. 825
Workmen placed in category IV : Rs. 125

11. The management shall pay them the wages of category V together with such increments as may be due to them in that grade (from the time they had been working on time rated jobs continuously notwithstanding the period of their transfer to Sodepur Colliery) from 1-11-80. How their pay will be fixed in category V is for the management to decide as per provisions of NCWA and other relevant instruments. This is not intended to accept the contention of the Congress in citing the instance of Gajuraj Singh Ahir and 3 others because I find in the same settlement dated 28-12-78 referred to in para 4 above an underground loader Shri Ram Chatar Kurmi has been fixed in Cat. I and paid Rs. 12 per day. The management shall however, be free to change their scale of pay to be consonance with the N.C.W.A. in accordance with the law. Legal right of both the parties reserved. There is no award as to cost, which has not even been asked for by the union.

I award accordingly.

V. P. GUPTA, Presiding Officer.
[No. L-19013/8/79-D.IV(B)]

S.O. 3241.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the management of Chachai Colliery, Burhar Sub-Area of Western Coalfields Limited, District Shahdol and their workmen which was received by the Central Government on the 29th October, 1980.

BEFORE SHRI A. G QURESHI, M.A., LL.B., PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.).

Case No. CGIT/LC(R)(45)/1980

PARTIES :

Employers in relation to the Management of Chachai Colliery, Burhar sub-Area of Western Coalfields Limited, P. O. Amlai, Distt. Shahdol (M.P.) and their workmen through the President, Bhartiya Koyal Mazdoor Sangh, Dhanpuri.

APPEARANCES :

For Workman—Shri D. L. Agarwal, President.
For Management—Shri P. S. Nair, Advocate.

INDUSTRY : Coal . . . DISTRICT : Shahdol (M.P.).

AWARD

Dated : October 23, 1980.

The Government of India, Ministry of Labour, in exercise of the powers conferred by Clause 10(1)(d) of the Industrial Disputes Act, 1947 has referred the following dispute for adjudication to this Tribunal vide Order No. L 22012(7)/80-D.IV(B), dated 25th July, 1980:—

"Whether the action of the management of Chachai Colliery Burhar Sub-Area of Western Coalfields Limited, Post Office Amlai Colliery, Distt. Shahdol in not regularising Shri Dayasankar S/o. Madura Prasad Shutram, Chachai Colliery, Ticket No. 1641 as Weigh Bridge Clerk with effect from 19th October, 1978 is justified? If not, to what relief is the concerned workman entitled?"

2. After the service of the notice on the parties the representative of the Union, Shri D. L. Agrawal, President, Bhartiya Koyal Mazdoor Sangh, Dhanpuri, submitted that the management has already entered into a settlement with the workman concerned, therefore the case be kindly closed. The management also submitted that the dispute which has been referred to this Tribunal by the Government is regarding regularisation of Shri Dayasankar S/o Shri Madura Prasad as Weigh Bridge Clerk but Shri Dayasankar had submitted an application under Sec 33-C(2) of Industrial Disputes Act, 1947 claiming difference of wages of Weigh Bridge Clerk

and Shuntman. He had also made a claim for regularisation as Weigh Bridge Clerk in that application. The matter was discussed mutually between the parties and the settlement was arrived at in Form H in the month of June, 1980. According to the terms of settlement the management agreed to place Shri Dayasanker as Weigh Bridge Clerk in Grade III in Chachai Mines with effect from 1st May 1980. Shri Dayasanker in lieu of the regularisation abandoned his claim for back wages and other benefits prior to the date of the regularisation.

3. The management has examined Shri U. K. P. Singh, Deputy Personnel Manager of Kotma and Jamuna Sub-Area. He has filed the original Memorandum of Settlement in Form H signed by the workman and the representative of the employer and has stated on oath that the settlement was arrived at on 9-6-1980 and the copies were forwarded under Rule 58 of Industrial Disputes Rules 1957 to Regional Labour Commissioner (Central), Chief Labour Commissioner (Central) and the Secretary to Government, Ministry of Labour, Government of India, New Delhi. In terms of the settlement Shri Dayasanker has already been promoted as Weigh Bridge Clerk in Grade III with effect from 1st May 1980. After this settlement dispute survives.

4. The reference was made by the Government on 25-7-80 but the workman had entered into a mutual settlement with the management prior to the date of reference i.e. 9-6-1980. The Union representative also submits that there is no dispute in existence. Therefore in view of the settlement arrived at between the parties before the order of reference and the submission of both the Union and Management that no dispute now survives I hold that no dispute between the parties in existence which may require the adjudication by this Tribunal. Hence I give a no dispute award.

A. G. QURESHI, Presiding Officer.

23-10-1980.

[No. L-22012/7/80-D.IV(B)]

S.O. 3242.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the management of Chachai Colliery, Burhar Sub-Area of Western Coalfields Limited, District Shahdol and their workmen, which was received by the Central Government on the 29th October, 1980.

BEFORE SHRI A. G. QURESHI, M.A., LL.B., PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(52)/1980

PARTIES :

Employers in relation to the management of Chachai Colliery, Burhar Sub-Area of Western Coalfields Limited, District Shahdol (M.P.) and their workmen represented by the President, Bhartiya Koyal Khan Mazdoor Sangh, Dhanpuri.

APPEARANCES :

For workman—Shri D. L. Agarwal, President.
For Management—Shri P. S. Nair, Advocate.

INDUSTRY : Coal.

DISTRICT : Shahdol (M.P.).

Dated : October 23, 1980

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred by Clause 10(1)(d) of the Industrial Disputes Act 1947 has referred the following dispute for adjudication to this Tribunal vide Order No. L-22012(5)/80-D.IV. B, dated 8th August, 1980 :—

"Whether the action of the management of Chachai Colliery, Burhar Sub-Area, Western Coalfields Limited, District Shahdol in not regularising Shri Achoo, son of Shri Abit Ali Token No. 1700 in the post of Weigh Bridge Clerk Grade III is justified? If not, to what relief is the concerned workman entitled?"

2. After the service of the notice on the parties the representative of the Union, Shri D. L. Agarwal, President, Bhartiya Koyal Mazdoor Sangh, Dhanpuri, submitted that the management has already entered into a settlement with the workman concerned, therefore the case be kindly closed. The management also submitted that the dispute which has been referred to this Tribunal by the Government is regarding regularisation of Shri Achoo Son of Shri Abit Ali as Weigh Bridge Clerk but Shri Achoo had submitted an application under Sec. 33-C(2) of Industrial Disputes Act 1947 claiming difference of wages of Weigh Bridge Clerk and Shuntman. He had also made a claim for regularisation as Weigh Bridge Clerk in that application. The matter was discussed mutually between the parties and the settlement was arrived at in Form H in the month of June, 1980. According to the terms of settlement the management agreed to place Shri Achoo as Weigh Bridge Clerk in Grade III in Chachai Mines with effect from 1st May 1980. Shri Achoo in lieu of the regularisation abandoned his claim for back wages and other benefits prior to the date of the regularisation.

3. The management has examined Shri U. K. P. Singh, Deputy Personnel Manager of Kotma and Jamuna Sub-Area. He has filed the original Memorandum of Settlement in Form H signed by the workman and the representative of the employer and has stated on oath that the settlement was arrived at on 9-6-1980 and the copies were forwarded under Rule 58 of Industrial Disputes Rules 1957 to Regional Labour Commissioner (Central), Chief Labour Commissioner (Central) and the Secretary to the Government, Ministry of Labour, Government of India, New Delhi. In terms of the settlement Shri Achoo has already been promoted a Weigh Bridge Clerk in Grade III with effect from 1st May, 1980. After this settlement dispute survives.

4. The reference was made by the Government on 8-8-1980 but the workman had entered into a mutual settlement with the management prior to the date of reference i.e. 9-6-1980. The Union representative also submits that there is no dispute in existence. Therefore in view of the settlement arrived at between the parties before the order of reference and the submission of both the union and the management that no dispute now survives I hold that no dispute between the parties is in existence which may require the adjudication by this Tribunal. Hence I give a no dispute award.

Sd/-

A. G. QURESHI, Presiding Officer.

[No. L-22012(5)/80-D.IV(B)]

S.O. 3243.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the management of Chachai Colliery, Burhar Sub-Area of Western Coalfields Limited, District Shahdol and their workmen which was received by the Central Government on the 29th October, 1980.

BEFORE SHRI A. G. QURESHI, M.A., LL.B., PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.).

Case No. CGIT/LC(R)(53)/1980

PARTIES :

Employers in relation to the management of Chachai Colliery, Burhar Sub-Area of Western Coalfields Limited, District Shahdol and their workman through the President, Bhartiya Koyal Khan Mazdoor Sangh, Dhanpuri.

APPEARANCES :

For Workman—Shri D. L. Agrawal, President.
For Management—Shri P. S. Nair, Advocate.

INDUSTRY : Coal

DISTRICT : Shahdol (M.P.).

Dated : 23rd October, 1980

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred by Clause 10(1)(d) of the

Industrial Disputes Act, 1947 has referred the following dispute for adjudication to this Tribunal vide Order No L-22012(8)/80-D IV(B), dated 8th August 1980

Whether the action of the management of Chachai Colliery of Messrs Western Coalfields Limited in not regularising Shri Satya Deo Son of Amol Singh, Ticket No 1699 as a Weigh Bridge Clerk with effect from March, 1977 is justified ? If not, to what relief is the concerned workman entitled ?

2 After the service of the notice on the parties the representative of the Union Shri D L Agarwal, President, Bhartiya Koyal Mazdoor Sangh, Dhanpur submitted that the management has already entered into a settlement with the workman concerned therefore the case be kindly closed. The management also submitted that the dispute which has been referred to this Tribunal by the Government is regarding regularisation of Shri Satyadeo S/o Shri Amol Singh as Weigh Bridge Clerk but Shri Satyadeo had submitted an application under Sec 33-C(2) of Industrial Disputes Act 1947 claiming difference of wages of Weigh Bridge Clerk and Shuntman He had also made a claim for regularisation as Weigh Bridge Clerk in that application. The matter was discussed mutually between the parties and the settlement was arrived at in Form H in the month of June, 1980. According to the terms of settlement the management agreed to place Shri Satyadeo as Weigh Bridge Clerk in Grade III in Chachai Mines with effect from 1st May 1980. Shri Satyadeo in lieu of the regularisation abandoned his claim for back wages and other benefits prior to the date of the regularisation.

3 The management has examined Shri U K P Singh Deputy Personnel Manager of Kotma and Jamuna Sub-Area. He has filed the original Memorandum of Settlement in Form H signed by the workman and the representative of the employer and has stated on oath that the settlement was arrived at on 9-6-1980 and the copies were forwarded under Rules 58 of Industrial Disputes Rules, 1957 to Regional Labour Commissioner (Central) Chief Labour Commissioner (Central) and the Secretary to Government Ministry of Labour, Government of India, New Delhi. In terms of the settlement Shri Satya Deo has already been promoted as Weigh Bridge Clerk in Grade III with effect from 1st May 1980. After this settlement no dispute survives.

4 The reference was made by the Government on 8-8-1980 but the workman had entered into a mutual settlement with the management prior to the date of reference i.e. 9-6-1980. The Union representative also submits that there is no dispute in existence. Therefore in view of the settlement arrived at between the parties before the order of reference and the submission of both the union and the management that no dispute now survives I hold that no dispute between the parties is in existence which may require the adjudication by this Tribunal. Hence I give a no dispute award.

A G QURFSHI Presiding Officer

Dated 23-10-1980

[No L-22012/8/80-D IV(B)]
HARBANS BAHDUR, Desk Officer

New Delhi, the 10th November, 1980

S.O. 3244.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No 2, Bombay in the industrial dispute between the employers in relation to the management of the Telecom Factory, Bombay and their workmen which was received by the Central Government on the 25th October 1980.

BEFORE SHRI JITENDRA NARAYAN SINGH PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO 2 BOMBAY
Reference No CGIT 2/1 of 1978

PARTIES

Employers in relation to the Management of the Telecom Factory, Bombay

AND

Their Workmen

APPEARANCES

For the Employer—Shri S C Mitter, Personnel Officer
For the Workmen—

1 Shri V A Naik President, Telephone Workers' Union Bombay

2 Shri R M Oke, Hon General Secretary, Telephone Workers' Union, Bombay

INDUSTRY Telephones

STATE Maharashtra

Bombay dated the 16th October, 1980

AWARD

The Government of India, in the Ministry of Labour in exercise of the powers conferred under Section 10(1)(d) of the Industrial Disputes Act, 1947 referred the following industrial dispute to this Tribunal for adjudication under Order No L-40012(4)/76-D II(B) dated 18-3-1978

' Whether the action of the management of Telecom Factory, Bombay in denying promotion to Shri K S Sahu, Hardener, to the post of Chargeeman of Shop No 8, is justified ? If not to what relief is the said Shri Sahu entitled ?'

The case of the Union representing the workman Shri K S Sahu is that Shop No 8 of the management is named as Tool Shop including Heat Treatment according to the notification issued by the authorities, dated 1-4-1960 and only one gradation list of the staff is maintained for Tool Shop No. 8 which includes different trades. The pay roles and the Attendance Register of the staff of Shop No 8 is one which includes all categories of employees and there is no separate staff viz for Hardening shop. It is alleged that as per rules framed by the Government various categories of employees are eligible for promotion to the next higher trade after passing certain tests. According to the rules the Test for promotion is open to workers of the same shop in which the vacancy arises and the promotion is to be made on seniority-cum-suitability basis out of the candidates who qualify in the Trade Test. According to the said rule the seniority should be between those who qualify at the same time and those who qualify subsequently would rank junior irrespective of the former having been originally senior to later. It also provides that names of the candidates who qualify should be kept in a panel for promotion against vacancies till all of them are absorbed.

It is further the case of the workman that the management conducted a Trade Test for the post of Chargeeman in Shop No 8 and the names of the successful candidates were kept on panel dated 11-12-1973. It is stated that the Senior-most workman was promoted to the post of Chargeeman in the said Shop by letter dated 25-7-1974 against a vacancy caused due to retirement of one chargeeman, but subsequently when another vacancy arose it was filled up on 30-6-1976 by junior workman and the concerned workman Shri S K Sahu, second in the list of the successful candidates in the Trade Test was not promoted. It is submitted that the denial of promotion to the concerned workman is illegal and he is entitled to be promoted to the post of chargeeman with effect from 30-6-1976 when his junior was promoted and he is entitled to receive higher scale of pay from the said date.

The case of the management is that in the year 1973 a Trade Test was held for Chargeeman Hardening Shop No 8 as per notice dated 9-10-1973 in which two officials viz Shri P Palanna and the concerned workman Shri K S Sahu were declared successful. Shri Palanna was No 1 in the list and so he was promoted as Chargeeman on 1-7-1974 in Hardening Shop No 8 and the second official viz the concerned workman has been kept on approved panel till another vacancy in Hardening Shop arose as he can be considered for promotion for Hardening Shop only. It is further contended that another Trade Test was held on 30-6-1976 for Chargeeman in Tool Shop No 8 and the person who succeeded in that Test was promoted to officiate as Chargeeman in a leave vacancy caused by one Chargeeman of the said Shop proceeding on leave. It is submitted that the promotion in respect of the official has been made in accordance with the rules laid down by the competent authority from time to time and no illegality has been caused.

The point for consideration is whether the action of the management of Telecom Factory, Bombay in denying promotion to Shri K S Sahu, Hardener to the post of Chargeeman of Shop No 8 is justified and if not to what relief Shri Sahu is entitled.

So far as the management is concerned they admit the relevant rules as propounded by the Union and they also conceded that the promotions are made from the same shop after holding Trade Test. The main contention on behalf of the

management however is that the Trade Test held in 1973 was not for a General Chargeman but for the Chargeman Hardening Shop. It is admitted that there is nothing like Hardening Shop in Shop No. 8 but there is Hardening Department which is a part and parcel of Shop No. 8. It is submitted that the concerned workman was qualified as No. 2 for the post of Chargeman in the Hardening Department and when vacancy arose in that Department number 1 in the list was promoted and there was no other vacancy in the department. It is also submitted that in the year 1976 there was a Trade Test for selection of candidates for forming a panel for future promotion to the Cadre of Chargeman Tool Shop No. 8 but in that test the concerned workman did not appear. In the said test another candidate succeeded and he has been appointed. It is submitted on behalf of the management in their written statement the word 'Hardening Shop' has been used by mistake and it should be read as Hardening Department of Shop No. 8.

The gradation lists of different shops have been filed to show the seniority and it shows that there are two Chargemen in Grade I and Two Chargemen in Grade II in Shop No. 8. The gradation list does not show that there are different shops like hardening etc. in Shop No. 8.

On behalf of the concerned workman it is submitted that no separate qualifications are required for promotion in Shop No. 8 and the contention of the management that for different department in Shop No. 8, different qualifications are required is incorrect. The management however during the course of argument was directed to file documents to show that different qualifications are necessary for the post of Chargeman for different section of Shop No. 8, but the management has failed to file any such documents. The gradation list as also other documents filed on behalf of the management clearly indicates that there is nothing in support of the contention of the management and in that case since the concerned workman succeeded in the Trade Test of 1973 his case should have been considered for promotion for the post of Chargeman in Shop No. 8 when the vacancy arose in 1976. The management also filed documents at the instance of the concerned workman to show that persons have been promoted to higher post irrespective of the shop in which they qualified. This fact is also admitted on behalf of the management.

I have already mentioned that no document has been filed on behalf of the management to show that for Hardening Department or Heat Department as also for different departments different qualifications are required for holding the post of Chargeman. There is nothing to show that the concerned workman did not hold qualification for being promoted as Chargeman in the two sections, when he was successful in the Trade Test for the post of Chargeman in the Hardening Department. It is also admitted that the concerned workman is an employee in Shop No. 8.

Considering these I hold that action of the management in denying promotion to Shri K. S. Sahu, Hardener to the post of Chargeman of Shop No. 8 is not justified and he should have been promoted to the post of Chargeman from 30-6-1976 when a vacancy arose in that shop. He is, accordingly, entitled to get promotion to the post of Chargeman with effect from 30-6-1976 and the resultant benefits from that date.

Award is made accordingly.

No order as to costs.

JITENDRA NARAYAN SINGH, Presiding Officer.
[No. L-40012/4/76-D.II(B)]
S. S. BHALLA, Desk Officer

New Delhi, the 10th November, 1980

S.O. 3245.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Dhanbad, in the industrial dispute between the employers in relation to the management of West Bokaro Colliery of Messrs Tata Iron and Steel Company Limited, Post Office Ghatot and, District Hazaribagh and their workmen, which was received by the Central Government on the 29th October, 1980.

BEFORE SHRI J. P. SINGH, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
(NO. 2) DHANBAD

Reference No. 65 of 1979

In the matter of an industrial Dispute under S. 10(1)(d)
of the Industrial Disputes Act, 1947.

PARTIES :

Employers in relation to the management of West Bokaro colliery of Tata Iron and Steel Company Limited, Post Office Ghatot and, District Hazaribagh

AND

Their Workmen.

APPARANCES :

On behalf of the workmen.—Shri T. P. Choudhury, Advocate.

On behalf of the workmen.—Shri T. P. Choudhury, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, the 27th October, 1980

AWARD

This is a reference under section 10 of the I.D. Act, 1947. The Central Government by its notification No. L-20012/216/76/DIIA dated 9th November, 1976 has referred this dispute to this Tribunal for adjudication on the following points :

SCHEDULE

"Whether the action of the management of West Bokaro colliery of Tata Iron and Steel Company Limited, at and Post Office Ghatot and, District Hazaribagh in dismissing Shri Manas Kumar Bose, Electro Mechanic with effect from the 19th May, 1976 is justified? If not, to what relief is the said workman entitled?"

2. This case was originally received in this court on 12-11-1976 and registered as Reference No. 38/76. Thereafter it was transferred to the Central Government Industrial Tribunal (No. 3) Dhanbad and registered there as Ref. No. 55/77 on 4-4-1977. It was re-transferred to this court and registered on 7-7-1979 as Ref. No. 865/79. Since then the hearing of this case has been closed.

3. A preliminary hearing was given to the question as to whether the domestic enquiry resting on the question of dismissal of Shri Manas Kumar Bose was fair and proper. By order dated 13th April 1978 a decision was taken that the domestic enquiry was fair and proper. We have therefore to go into the question as to whether the punishment awarded to the concerned workman is justified. We shall briefly go into the merits of the case in order to assess the quantum of punishment which in this case has been dismissed.

4. I would like to briefly state the case. Shri Manas Kumar Bose, Electro-mechanic of West Bokaro colliery had led an agitation of Hindu workers of the colliery against the proposal of the Muslim community of the colliery to construct a mosque/Imambara by the side of the main road. A petition objecting to the construction of the mosque/Imambara was sent to the Dy. Commissioner and Superintendent of Police in which Shri Manas Kumar Bose was the first signatory. On 28-12-1975 a Deputy Superintendent of Police visited the place and recorded the statements of witnesses including the statement of Manas Kumar Bose. The Divisional Manager of the Colliery, Shri B. S. Rao was apprised of the agitational situation by the Government authorities, and so on 17-1-76 at about 8.00 A.M. Shri Rao called Shri Manas Kumar Bose to his office chamber to ascertain the exact situation. Shri Manas Kumar Bose did not accept before him that he had made dirty allegations against the management and simply stated that he had signed a blank paper which was used by some mischievous persons. Shri B. S. Rao asked him to state the name of those mischievous persons, but Shri Bose refused to disclose.

At the time of this interview Shri V. R. Kochhar, Chief Engineer also intervened and explained to him that he should not have signed on a blank paper. The concerned workman, Shri Bose alleged that Shri Kochhar abused him saying 'bloody bastard, then why did you sign the petition'. Shri B. S. Rao and Shri Kochhar were informed that Shri Manas Kumar Bose was falsely spreading rumour that Shri Ko-

char had abused him by saying 'bloody bastard'. Shri Bose also sent a petition to the Dy. Commissioner making the same allegation and to the Minister of Home Affairs, Central. The management thereafter decided to frame a charge against Shri Manas Kumar Bose for misconduct. To the charge-sheet (Ext. M1) the reply of Shri Bose is Ext. M2.

5. A departmental proceeding was started against him which was conducted by Shri S. C. Prosad, Chief Personnel & Welfare Officer. Shri Bose attended the departmental enquiry and cross-examined witnesses for the management and also adduced defence witnesses. The enquiry proceeding is Ext. M14 and the enquiry report is Ext. M15. The office copy of the dismissal letter is Ext. M7.

6. While discussing the question of propriety and fairness of domestic enquiry two questions appeared to have been raised before the court—viz. (1) whether Mr. Kochar has said 'bloody bastard why did you sign the petition', (2) whether the charge was established. To the first question this court found that Mr. Kochar had not uttered those words and the answer to the second question was that the charge was lawfully established. Obviously, this court had to enter into the merits of the case at the preliminary stage in order to ascertain whether the report of the enquiry officer was perverse. I have gone through the evidence of witnesses produced by the management and have also perused the enquiry report. I would like briefly to add to the discussion of this case although I am convinced that the conclusions drawn by this court on the aforesaid two points are correct.

7. In the instant case it is an admitted position that the Hindu community was opposed to construction of a mosque/Imambara. It is also an admitted position that in the colliery campus there already existed two Hindu temples. According to the concerned workman the agitation was not so much for construction of a mosque/Imambara but for its location by the side of the main road. It is also an admitted position that the concerned workman was taking a leading part in the Hindu agitation. He was an important member of the Colliery Mazdoor Sangh which is affiliated to INTUC. Besides that he was also a member of Youth Congress. There is nothing to indicate that the agitators approached the General Manager of the colliery to desist from permitting the Muslims to construct a mosque/imambara by the side of the main road. Instead a petition was filed before the Dy. Commissioner and Supdt. of Police, Hazaribagh maligning the management. It is also an admitted position that a Dy. Supdt. of Police, Hazaribagh came to the colliery for making an enquiry and also contacted the concerned workman and took his statement. The D.S.P. contacted Shri M. S. Rao also. Shri Rao in his turn went to the Dy. Commissioner and saw the contents of the petition filed before the Dy. Commissioner. It was in this background that Shri Rao called the concerned workman to his chamber to explain his conduct. According to the evidence of Shri Rao the concerned workman showed complete ignorance about the petition and only disclosed that at the instance of others he has simply signed a blank paper. According to the evidence of Shri Rao and Shri Kochar they advised the concerned workman to be cautious in putting signature on blank papers. The evidences of both these witnesses are that the concerned workman left the chamber and so far as the management is concerned there was no question of any action to be taken against the concerned workman. But information started pouring in that Shri Manas Kumar Bose was propagating that Shri Kochar in that meeting had called him 'bloody bastard'. It was also learnt that Shri Bose had also filed a petition before the Dy. Commissioner that Shri Kochar had abused him saying 'bloody bastard'. The evidence of Shri B. S. Rao is that after the charge-sheet was issued the Secretary of the Colliery Mazdoor Sangh had approached him and promised to obtain a written apology from Shri Manas Kumar Bose. The proceeding was held up for sometime awaiting the written apology, but since it did not

materialise the proceeding had to start. The union in its turn expelled Shri Manas Kumar Bose from the Executive and also withdrew the earlier petition filed by the union. Both these petitions are on record and exhibits in this case;

8. Shri B. S. Rao in his cross-examination has said that Shri Kochar had not called the concerned workman 'bloody bastard' but simply stated 'why the hell you signed in that blank sheet of paper'. Shri Rao is positive that Shri Kochar did not utter a single word or expression which would be called abusive. According to the concerned workman he was interviewed in presence of Shri B. S. Rao and Shri Kochar. It is not possible that anybody else was able to hear these conversation but even then strong rumour was spread that Shri Kochar had called Shri Manas Kumar Bose—'bloody bastard'. In fact it is an admitted position that Shri Bose had sent complaint to the Dy. Commissioner and the Minister, Home Department, Central stating that Shri Kochar had abused him saying 'bloody bastard'. In this case there does not appear to be an apparent reason why Shri Kochar should have abused the concerned workman because if any chastisement was to be given to the concerned workman it should have been done by Shri Rao. It does not stand to reason why Shri Kochar or Shri Rao being so highly placed officers should utter filthy language like 'bloody bastard'. It is quite obvious that Shri Bose in order to malign Shri Kochar gave currency to the rumour that Shri Kochar abused him saying 'bloody bastard' and also admittedly filed petitions before the Dy. Commissioner and the Home Minister (Central) making similar complaints 9.

9. The next question that arises in this case is as to whether the charge as framed is applicable. The charge is under Standing Order—clause 27(19). Standing Order 27 deals with punishment for misconduct and 20 instances have been provided which would amount to misconduct. Clause 19 reads thus :

"Any breach of the Indian Mines Act, or any other Act, or of any rules or bye-laws thereunder, or of any Standing Orders."

It is clear that this clause 19 is not applicable to the facts of the case. In my opinion, the appropriate clause should have been clause 14 which lays down that writing of unanimous letter criticising a superior officer of the company amounted to a misconduct. In any case, the conduct of Shri Bose in maligning the superior officer by rumour and in writing amounted to a misconduct as laid down under Standing Order 27. Moreover, there are decisions to the effect that making false and defamatory allegations against the management by an employee would amount to an act subversive of discipline and as such tantamount to misconduct. Mysore Lamp Works case as reported in 1971 (II) Factories and Labour Reports—page 53 may be referred to in this connection. The concerned workman was therefore lawfully charged for misconduct.

10. Thus having considered the broad aspect of this case and the arguments advanced by both sides at this stage of this proceeding I have to hold that the action of the management of West Bokaro Colliery of Tata Iron and Steel Company Limited, at and Post Office Ghatotkach, District Hazaribagh in dismissing Shri Manas Kumar Bose, Electro Mechanic with effect from the 19th May, 1976 is justified. The concerned workman, therefore, is entitled to no relief.

This is my award.

J. P. SINGH, Presiding Officer

[No. L-20012/216/76-D. III(A)]

S. S. MEHTA, Desk Officer

